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BEFORE THE KENTUCKY PUBLIC SERVICE COMMISSION

DIRECT TESTIMONY OF GREGORY R. FOLLENSBEE

ON BEHALF OF

AT&T COMMUNICATIONS OF THE SOUTH CENTRAL STATES, INC.

AND TCG OHIO

DOCKET NO. 2000-465

FEBRUARY 6, 2001

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5 **AND TCG OHIO**

6

7 **Q. PLEASE STATE YOUR NAME, ADDRESS AND EMPLOYMENT.**

8 **A.** My name is Gregory R. Follensbee, and I am employed by AT&T Corp. as a
9 Director in its Law & Government Affairs organization, providing support for
10 AT&T's regulatory and legislative advocacy in the nine states that make up
11 AT&T's Southern Region. My office is at 1200 Peachtree Street, Suite 8100,
12 Atlanta, Georgia 30309.

13

14 **Q. PLEASE DESCRIBE YOUR BACKGROUND AND PROFESSIONAL**
15 **EXPERIENCE AS THEY RELATE TO ISSUES IN THIS**
16 **PROCEEDING.**

17 **A.** I graduated from Florida State University in 1972 with a Bachelors of
18 Science degree in accounting. I began work in August of that year as a field
19 auditor with the Florida Public Service Commission. In 1976, I was
20 promoted to Manager over the accounting group devoted to regulating
21 electric and gas public utilities. In 1978, I was promoted to Manager over the
22 accounting for all public utilities regulated in Florida. In 1979, I was
23 promoted to Director of the Accounting Department, which expanded my

1 responsibilities to include all accounting matters for all public utilities
2 regulated in Florida, which included auditing, cost of capital, and taxes. In
3 1980, the department was expanded to include Management Audits as well.
4 In October 1983, I left the Florida Commission and began work with AT&T.
5 I was a District Manager in its State Governmental Affairs staff organization,
6 supporting AT&T's advocacy of regulatory issues for its Southern Region.
7 In 1990, I became the Assistant Vice President for State Government Affairs
8 for the State of South Carolina. In 1995, I returned to Atlanta and was
9 promoted to Division Manager, responsible for AT&T's regulatory and
10 legislative advocacy in the nine states in AT&T's Southern Region.

11

12 **Q. HAVE YOU TESTIFIED IN OTHER REGULATORY PROCEEDINGS**
13 **IN THE PAST?**

14 A. Yes. I have testified in Florida, Georgia, Louisiana, North Carolina and
15 South Carolina.

16

17 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS**
18 **PROCEEDING?**

19 A. I am testifying on behalf of AT&T Communications of the South Central
20 States, Inc. and TCG, Ohio, Inc. (collectively "AT&T") on the following
21 issues:

- 1
- why calls to Internet Service Providers should be treated as local traffic for purposes of reciprocal compensation (ISP traffic/Issue 1);
- 2
- 3
- what is the appropriate interpretation of the phrase “currently combines” as used in 47 C.F.R. 51.315(b) (Issue 4);
- 4
- 5
- why BellSouth should not be able to charge an additional “glue charge” when providing combinations of network elements (Issue 5);
- 6
- 7
- why BellSouth should not charge AT&T cancellation charges when AT&T requests that BellSouth convert tariffed services to network elements (Conversion to UNEs/Issue 6).
- 8
- 9
- why should Bellsouth bear the total cost of originating local and intraLATA calls from its own customers to AT&T customers (Network Interconnection/Issue 7);
- 10
- 11
- why AT&T should be able to charge tandem switching and common transport reciprocal compensation charges to BellSouth for calls from BellSouth customers to AT&T customers (Tandem Switch Rate/Issue 9);
- 12
- 13
- what is the appropriate treatment of outbound voice calls over Internet protocol (“IP”) telephony, as it pertains to reciprocal compensation (Issue 13), and;
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21

- 1 • why a third party commercial arbitrator should resolve disputes
2 under the Interconnection Agreement (Issue 21).

3

4 **Q. WERE YOU PART OF THE TEAM FROM AT&T NEGOTIATING**
5 **WITH BELLSOUTH ON THE INTERCONNECTION AGREEMENT**
6 **THAT IS THE SUBJECT OF THIS PETITION?**

7 A. Yes.

8

9 **Q. WHO ELSE WAS PART OF THE AT&T TEAM?**

10 A. The AT&T negotiating team consisted of two commercial attorneys, a lead
11 negotiator, and two support personnel. From time to time, both AT&T and
12 BellSouth would include subject matter experts in the negotiations to help
13 reach resolution on a particular issue.

14

15 **Q. WHAT WERE YOUR RESPONSIBILITIES DURING THE**
16 **NEGOTIATIONS?**

17 A. Because I was involved in the negotiations of the existing interconnection
18 agreement arbitrated by this Commission in 1996, I provided information on
19 what was discussed and agreed to or arbitrated previously in 1996. In
20 addition, I provided input on state and Federal Communications Commission
21 (FCC) regulatory issues that impacted the negotiations.

22

1 Q. WHO DID YOU NEGOTIATE WITH AT BELLSOUTH?

2 A. BellSouth's team consisted of two commercial attorneys, a lead negotiator,
3 one support person and one person from its regulatory group.

4

5 Q. WAS AT&T ABLE TO REACH AN AGREEMENT WITH
6 BELLSOUTH ON ALL ISSUES?

7 A. No. While many issues were resolved through negotiations, as can be seen
8 from the agreement attached to AT&T's petition, several issues are still
9 unresolved, and must be arbitrated by this Commission. The issues currently
10 before this Commission for arbitration are ones where the parties "disagree"
11 on the resolution.

12

13 ISSUE 1: SHOULD CALLS TO INTERNET SERVICE PROVIDERS
14 BE TREATED AS LOCAL TRAFFIC FOR PURPOSES OF
15 RECIPROCAL COMPENSATION?

16 Q. BRIEFLY DESCRIBE THE ISSUE REGARDING CALLS TO
17 INTERNET SERVICE PROVIDERS.

18 A. Due to the tremendous growth in this country in the use of dial-up calling to
19 the Internet, customers of one local telecommunications service provider call
20 (dial up) a customer (an Internet Service Provider ("ISP")) of another local
21 telecommunications service provider in order to use their computers. When
22 BellSouth serves the originating customers, BellSouth does not want to have
23 these ISP-bound calls treated as local for purposes of paying AT&T

1 reciprocal compensation. These calls are made by BellSouth customers who
2 dial a local seven or ten-digit number to reach the ISP who AT&T provides
3 local service. AT&T believes, based upon the traditional “caller pays”
4 practice, that BellSouth is obligated to pay AT&T for completing these calls,
5 just as it is obligated to pay AT&T for completing all other local calls.

6 My testimony addresses generally the issue of “reciprocal compensation”
7 arrangements between interconnecting local exchange carriers, and more
8 specifically the basis for establishment of the reciprocal compensation
9 payment by an incumbent local exchange carrier (“ILEC”) for calls originated
10 by an ILEC’s end-user customers that are handed-off to a competitive local
11 exchange carrier (“CLEC”) for termination. It explains why such payments
12 are appropriate, and discusses the economic basis for their determination.

13

14 **Q. WHAT IS THE TRADITIONAL PRACTICE IN KENTUCKY AND**
15 **ACROSS THE U.S. GENERALLY FOR COMPENSATING LOCAL**
16 **EXCHANGE CARRIERS (LECS) FOR THEIR CARRIAGE OF**
17 **LOCAL TELEPHONE CALLS?**

18 **A.** The almost universal practice in Kentucky as well as generally throughout the
19 nation is for local calls to be provided on a “caller pays” basis by the local
20 exchange carrier on whose network the call originates. By “caller pays” I
21 mean that the customer who originates the call pays his or her local carrier to
22 get the local call from the point of origin all the way to its intended
23 destination on the public switched telephone network (PSTN). This means

1 that the originating carrier is compensated by its customer for local switching
2 at both the originating and terminating ends of the call as well as for
3 transporting the call the entire distance between the originating LEC switch
4 and the terminating LEC switch. Most importantly in the context of this
5 proceeding, the “caller pays” approach means that the calling party pays in
6 full for the termination of the call, as well as for its origination, even if a
7 carrier other than the originating (and billing) carrier ultimately terminates
8 the call.

9

10 **Q. WHAT IS AT&T'S POSITION ON THE PAYMENT OF**
11 **RECIPROCAL COMPENSATION FOR CALLS ORIGINATED BY A**
12 **BELLSOUTH CUSTOMER?**

13 A. In general, the law is that that for all forms of traffic, whether ISP-bound or
14 otherwise, the party or company responsible for originating a call should bear
15 the responsibility for costs associated with that call. Therefore, when an
16 individual makes a local call, the individual and his/her telecommunications
17 carrier are responsible for the costs associated with that call. Along the same
18 lines, when an individual “calls” the Internet, the individual and his/her
19 telecommunications carrier are responsible for the costs associated with that
20 call. For example, if a BellSouth customer calls BellSouth.net, that customer
21 and BellSouth are responsible for the costs associated with that call. Neither
22 the receiver, in this case BellSouth.net, nor the receiving telecommunications
23 carrier should bear this responsibility.

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Q. WHEN A BELLSOUTH CUSTOMER CALLS AN ISP CUSTOMER BELONGING TO AT&T, DOES THE RESPONSIBILITY FOR COSTS CHANGE?

A. No. The responsibility for costs is the same as from what I described in my preceding answer (*i.e.*, the originating caller and his or her telecommunications carrier bear responsibility for the costs associated with the call). The financial responsibility for terminating calls does not and should not vary depending on the nature of the customer called. The financial responsibility for terminating calls should be the same whether the customer called is a residential customer, a bank, a hotel, a local movieline, or an ISP. Assuming a call to the Internet is initiated over standard phone lines, multiple carriers may handle the initial part of the call and its ultimate delivery to the ISP. Each of these carriers then plays a role in delivering the call to its final destination and is thereby entitled to compensation.

When a BellSouth customer calls an AT&T ISP customer, AT&T believes that such traffic should be compensated via reciprocal compensation like all other local traffic, because the call traverses the AT&T network and is delivered to the AT&T network via the use of a locally dialed number. Within its own network, BellSouth would both originate and terminate this call on a local basis.

1 **Q. WHAT IS THE FCC’S POSITION ON PAYMENT OF RECIPROCAL**
2 **COMPENSATION FOR CALLS TO THE INTERNET?**

3 A. The FCC stated in its Declaratory Ruling in CC Docket No. 96-98 and Notice
4 of Proposed Rulemaking in CC Docket No. 99-68,¹ that the States are
5 authorized to order reciprocal compensation for this traffic even though it is
6 jurisdictionally mixed – interstate and intrastate. Moreover, throughout its
7 *ISP Declaratory Ruling*, the FCC referenced the fact that it has previously
8 treated ISP-bound traffic as though it were local traffic.²

9

10 **Q. IS THE FCC POSITION THAT THIS TRAFFIC IS**
11 **JURISDICTIONALLY MIXED STILL VALID?**

12 A. No. On March 24 of this year, the United States Court of Appeals for the
13 D.C. Circuit vacated the ruling of the FCC and remanded the case back to the
14 FCC. The Court did leave intact the right of the state commissions to
15 determine how the traffic should be classified.³

16 The D.C. Circuit determined that the FCC did not provide an adequate
17 explanation why an “end to end” analysis of ISP-bound calls was appropriate
18 for classifying such calls as non-local for purposes of reciprocal

¹ Declaratory Ruling in CC Docket No. 96-98 and Notice of Proposed Rulemaking in CC Docket No. 99-68, In Re Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, Inter-Carrier Compensation for ISP-Bound Traffic, CC Docket Nos. 96-98 and 99-68, FCC 99-68, at ¶ 25 (February 26, 1999) (hereinafter *ISP Declaratory Ruling*).

² *Id.* at ¶¶ 5, 9, 20, 23.

³ *Bell Atlantic Telephone Companies v. Federal Communications Commission and United States of America, et. al.*, U.S. Court of Appeals, District of Columbia; Case No. 99-1094 (decided March 24, 2000).

1 compensation. The Court noted that the “end to end” analysis has typically
2 been used by the FCC to determine if a communication is jurisdictionally
3 interstate rather than local. In addition, the Court stated that, when this “end
4 to end” method is applied to ISP-bound calls, the result is not straightforward
5 because ISP calls, which use a packet switched network, could be routed to
6 multiple websites with multiple destination points. The Court found that the
7 “end to end” analysis for ISP bound calls is not appropriate because such
8 calls are not a single continuous transmission.⁴

9 In addition, the Court determined that the FCC has not provided an adequate
10 explanation why ISP bound traffic should not be classified as “telephone
11 exchange service” which is subject to the provisions of reciprocal
12 compensation for local traffic rather than “exchange access” or “access
13 service”.

14 Pursuant to the analysis of the D.C. Circuit, ISP-bound calls should be treated
15 as local calls subject to reciprocal compensation. Thus, regardless of whether
16 the call is to an ISP customer or any other customer of AT&T, BellSouth
17 should compensate AT&T via reciprocal compensation for the use of
18 AT&T’s network for these local calls.

19

20 **ISSUE 4: WHAT DOES “CURRENTLY COMBINES” MEAN AS**
21 **THAT PHRASE IS USED IN 47 C.F.R. §51.315(B)?**

⁴ Id at 5.

1 **ISSUE 5: SHOULD BELLSOUTH BE PERMITTED TO CHARGE**
2 **AT&T A “GLUE CHARGE” WHEN BELLSOUTH COMBINES**
3 **NETWORK ELEMENTS?**

4 **Q. BRIEFLY DESCRIBE THE ISSUES REGARDING THE DEFINITION**
5 **OF “CURRENTLY COMBINES” AND THE APPLICATION OF**
6 **GLUE CHARGES WHEN BELLSOUTH PROVIDES**
7 **COMBINATIONS OF NETWORK ELEMENTS TO AT&T.**

8 A. On January 25, 1999, the U.S. Supreme Court upheld FCC Rule 51.315(b),
9 which states: “Except upon request, an incumbent LEC shall not separate
10 requested network elements that the ILEC currently combines.” While
11 BellSouth now agrees that it must provide combinations of network elements,
12 it is proposing to limit when and how they will be provided. Specifically,
13 BellSouth proposes to only provide combinations when there is working
14 telephone service at the customer premise when AT&T places an order for
15 combinations of network elements to serve that customer. BellSouth will not
16 provide cost-based combinations to allow CLECs to serve new customers.
17 Instead, BellSouth proposes to assess a “glue charge” in these situations.

18
19 **Q. WHAT ARE “GLUE CHARGES?”**

20 A. “Glue charges” are additional non-TELRIC, non-cost-based charges
21 BellSouth is proposing be added to the Commission-approved network
22 element rates for loop/switch port and loop/transport combinations.
23 BellSouth proposes these additional charges based on its position that it is not

1 required to provide loop/switch port or loop/transport combinations in all
2 situations.

3 The real issue is whether BellSouth should be obligated to provide network
4 elements in a non-discriminatory manner, under terms, conditions and prices
5 that will promote local competition. While access to individual network
6 elements is important to several business strategies – most notably those that
7 involve the provision of higher-speed digital services to larger business
8 locations – access to logical combinations of network elements is what is
9 needed for broad local competition to develop for residential consumers and
10 small businesses. BellSouth routinely combines network elements for itself
11 and has configured its network and central offices to efficiently cross-connect
12 facilities into standard arrangements. Performing routine cross-connections
13 for competitors is an important dimension of its obligation to provide
14 network elements in a nondiscriminatory manner.

15

16 **Q. HOW DOES FCC RULE 51.315(b) RULE APPLY TO THE ISSUE AT**
17 **HAND?**

18 A. The above rule was part of a “suite” of combination rules -- §51.315 (a)
19 through (f) -- that the FCC had initially adopted to implement the
20 Telecommunications Act of 1996. Two of these rules – subpart (b) and (c) --
21 are important here because collectively they defined the ILECs complete
22 obligation relating to network element combinations. FCC Rule 315(c)
23 states:

1 § 51.315(c) --Upon request, an incumbent LEC shall perform the
2 functions necessary to combine unbundled network elements in any
3 manner, even if those elements are not ordinarily combined in the
4 incumbent LEC's network, provided such combination is:

- 5 (1) technically feasible; and
6 (2) would not impair the ability of other carriers to obtain
7 access to unbundled network elements or to
8 interconnect with the incumbent LEC's network.

9 Unfortunately, through an appellate process that I will not try to summarize
10 here, the first rule -- § 51.315(b) -- has been reinstated by the Supreme Court,
11 while the later -- § 51.315(c) -- remains vacated by the Eighth Circuit.
12 Consequently, Issue 4 of this arbitration is needed to clarify BellSouth's
13 obligation with respect to network elements that it "currently combines" in its
14 network, but which may not yet be physically connected for a specific
15 customer location.

16

17 **Q. WHY IS THIS ISSUE SO IMPORTANT?**

18 A. Widespread competition for average consumers requires that competitors be
19 able to access and use network elements in a simple and cost-effective
20 manner. This means, as a practical matter, that entrants must have access to
21 logical combinations of network elements to provide service. Although it is
22 possible to "piece together" serving arrangements using individual UNEs, the
23 past 5 years of experience demonstrates that these "hand crafted"

1 arrangements are primarily useful to serve larger business customers desiring
2 more specialized services.

3

4 **Q. DO THE ILECS THEMSELVES UNDERSTAND THE IMPORTANCE**
5 **OF UNE-P TO LOCAL COMPETITION?**

6 A. Yes, the importance of network element combinations to local competition is
7 well understood as well by the incumbent local telephone industry. An
8 ILEC-oriented publication, the United States Telephone Association's
9 magazine, observed that individual network elements are difficult to use at
10 volume:

11 Because of their fragmentary nature, UNEs will be
12 operationally difficult to order and to provision on both
13 sides. Product packages that comprise appropriate and
14 pre-set UNE combinations could reduce some of the
15 difficulties.⁵

16 Furthermore, whenever an ILEC confronts the same economic problem as a
17 CLEC – i.e., how to offer competitive local exchange service on a broad scale
18 – the answer is no different than what I have discussed here: UNE-P. For
19 instance, SBC revealed during the review of its merger with Ameritech that
20 its out-of-region entry strategy was premised on the use of network element
21 combinations to serve the residential and small business market. (*See*

1 Deposition and Testimony of James Kahan on behalf of SBC, Public Utilities
2 Commission of Ohio, Case No. 98-1082-TP-AMT). Further, in
3 Pennsylvania, Bell Atlantic was ordered to file a plan to separate its operation
4 into wholesale and retail affiliates. As part of that filing, Bell Atlantic (now
5 Verizon) proposed to use UNE-P as its principal entry strategy. (See Re
6 Structural Separation of Verizon Pennsylvania Inc. Retail and Wholesale
7 Operations, Pennsylvania Public Utility Commission, Docket No. M-
8 00001353). When incumbents confront the same conditions as entrants, they
9 reach the same conclusion: Network element combinations are the only
10 practical means of offering mass-market services.

11

12 **Q. WHAT MUST BE DONE TO EFFECT BROAD LOCAL**
13 **COMPETITION IN KENTUCKY?**

14 **A.** For UNE-P (and other combinations) to be practically useful, they must be
15 combined to offer service. For instance, to serve a residential customer or
16 small business customer desiring a second line, or to serve a new premise,
17 elements that BellSouth combines every day in its network must be
18 combined. The most efficient solution is for BellSouth to combine these
19 elements -- using the systems and processes that it has already established to
20 efficiently and routinely combine these same facilities -- and then provide the
21 entrant with the requested combination. Elements combined in this fashion

⁵ *Wholesale Marketing Strategy*, Salvador Arias, Teletimes, United States Telephone Association,

1 would be then also be available for migration to other competitors, thereby
2 enabling the customer to easily change carriers in the future as well.

3

4 **Q. HOW CAN THE COMMISSION ORDER BELLSOUTH TO**
5 **COMBINE ELEMENTS FOR ENTRANTS THAT IT ORDINARILY**
6 **COMBINES FOR ITSELF?**

7 A. There are two ways for the Commission to make sure that BellSouth
8 combines elements for entrants that it ordinarily combines for itself. The first
9 is to simply determine that rule §51.315(b) – which requires that BellSouth
10 offer network elements that it currently combines – includes combining
11 elements that it ordinarily combines, even if the particular elements have not
12 yet been connected for a specific customer. This is the path chosen by the
13 Georgia Public Service Commission that ruled:

14 that ‘currently combines’ means ordinarily combined within
15 the BellSouth network, in the manner in which they are
16 typically combined. Thus, CLECs can order combinations of
17 typically combined elements, even if the particular elements
18 being ordered are not actually physically connected at the time
19 the order is placed.⁶

Volume 12, No. 3, 1998.

⁶ *Order*, Georgia Public Service Commission, Docket No. 10692-U, February 1, 2000, at 11.

1 Alternatively, the Commission can order that BellSouth combine these
2 elements under its own authority, as the Michigan Commission has done:

3 The Commission also rejects the argument that Iowa Utilities
4 preempts state law, even if Ameritech Michigan's
5 interpretation of the court decision were valid. The decision
6 reflected the court's conclusion of law that the FCC
7 overstepped its statutory authority in requiring incumbents to
8 combine multiple network elements. As argued by AT&T and
9 MCI, this holding does not inhibit a state commission from
10 mandating various elements or combinations of elements
11 under state law. The federal Tele-communications Act of 1996
12 explicitly preserves states' authority to impose requirements
13 that accelerate competition in the local exchange market
14 beyond what federal law would otherwise mandate.⁷

15

16 **Q. SHOULD BELLSOUTH BE PERMITTED TO CHARGE AT&T A**
17 **"GLUE CHARGE" WHEN BELLSOUTH COMBINES NETWORK**
18 **ELEMENTS (ISSUE 5)?**

19 **A. No. BellSouth should only charge a cost-based rate for combining network**
20 **elements. To do otherwise would be discriminatory and would simply inflate**

⁷ January 28, 1998 Order, Case No. U-12280, pp. 21-22. (Footnote deleted.) cited again by the Commission in its Order in Cases Nos. U-11104 and U-12143, February 9, 2000.

1 the retail prices paid by consumers. Moreover, once elements are combined,
2 even under BellSouth's narrow reading of § 315(b), it would be unlawful to
3 separate the elements and they would have to be made available to other
4 competitors without disruption. If BellSouth were permitted to inflate its
5 charges for combining elements, then it would distort competition because it
6 would be less costly for a second CLEC to serve the customer than the CLEC
7 that won the customer's business in the first instance. Of course, the greater
8 distortion – and the likely motivation behind BellSouth's position – would be
9 that it would always be less costly for the customer to use BellSouth than a
10 competitive entrant.

11

12 **ISSUE 6: UNDER WHAT RATES, TERMS, AND CONDITIONS MAY**
13 **AT&T PURCHASE NETWORK ELEMENTS OR COMBINATIONS**
14 **TO REPLACE SERVICES CURRENTLY PURCHASED FROM**
15 **BELLSOUTH TARIFFS?**

16 **Q. EXPLAIN THE ISSUE PERTAINING TO THE APPROPRIATE**
17 **TERMS AND CONDITIONS THAT SHOULD BE APPLIED WHEN**
18 **AT&T ISSUES ORDERS TO MOVE TARIFFED SERVICES**
19 **PURCHASED FROM BELLSOUTH TO EITHER NETWORK**
20 **ELEMENTS OR COMBINATIONS OF NETWORK ELEMENTS?**

1 A. There are two remaining areas of disagreement pertaining to AT&T
2 converting tariffed services to network elements. Since the FCC issued its
3 Supplemental Order Clarification in CC Docket 96-98 on June 2, 2000
4 (“Supplemental Order Clarification”), most of the disagreement between the
5 parties has been resolved and the parties have reached agreement on the
6 process for submitting requests for conversions. Thus, the two remaining
7 areas that this Commission needs to address are as follows:

8 1. The appropriate rate BellSouth should charge AT&T for
9 converting services to UNEs, which will be addressed in the
10 generic cost proceeding; and

11 2. The application of termination liability charges to services
12 converted to either unbundled network elements or combination of
13 unbundled network elements, which I will address below.

14

15 **Q. WHY IS THERE AN ISSUE ON CONVERTING TARIFFED**
16 **SERVICES TO NETWORK ELEMENTS?**

17 A. In the past, AT&T purchased tariffed services from BellSouth to provide
18 local service to customers in Kentucky. As a result of the
19 Telecommunications Act of 1996 and several FCC orders implementing that
20 Act, AT&T is able to convert these services to network elements, including
21 combinations of network elements. The FCC issued an order outlining
22 certain criteria AT&T would have to meet in order to obtain these

1 conversions from Bellsouth⁸. The issue that BellSouth has raised is whether
2 BellSouth should be allowed to charge AT&T any cancellation charges for
3 converting these tariffed services to network elements.

4

5 **Q. WHAT CANCELLATION CHARGES ARE INVOLVED?**

6 A. While the exact charges that may apply are dependent upon the specific
7 service purchased by AT&T from BellSouth's tariffs, generally cancellation
8 charges are assessed whenever tariffed services are purchased under some
9 term or volume plan, and the purchaser decides to cancel the service before
10 the end of the term of the plan. In such cases, the service is completely
11 terminated and not replaced with another service.

12

13 **Q. WHAT NETWORK ELEMENTS OR COMBINATIONS OF**
14 **NETWORK ELEMENTS WOULD THE TARIFFED SERVICES BE**
15 **CONVERTED TO?**

16 A. Predominantly, AT&T is looking to convert special access services to either
17 unbundled loops or loop/transport combinations (commonly known as
18 Enhanced Extended Links or EELs) that begin at a customer's premise and
19 terminate into AT&T collocation space in a BellSouth central office, where

⁸ In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Third Report and Order, 4th FNOPR (UNE Remand"), CC Docket No. 96-98, FCC 99-238 (Rel. Nov. 5, 1999); In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Third Report and Order, 4th FNOPR (UNE Remand"), CC Docket No. 96-98, FCC 99-370 (Rel. Nov. 24, 1999); and In the Matter of Implementation of the Local

1 AT&T then terminates the trunk in one of its switches used to provide local
2 service.

3

4 **Q. WHAT IS AT&T PROPOSING?**

5 A. AT&T is proposing that it should not be assessed any cancellation charges
6 when requesting to convert services originally purchased from BellSouth's
7 tariffs to network elements or combinations of network elements. AT&T
8 originally purchased these tariffed services mainly because BellSouth was
9 unwilling to provide combinations of network elements in lieu of special
10 access. Rather than wait for the issue to be fully resolved either through
11 regulatory proceedings or litigation, AT&T used the only option it had
12 available. AT&T and its customers should not be penalized for BellSouth's
13 refusal to provide combinations of network elements. Furthermore, the FCC
14 did not state or even imply that ILECs were free to impose a penalty upon
15 CLECs for such conversions. What BellSouth seeks to do contravenes the
16 clear intent of the FCC. It also discriminates against CLECs when a
17 customer wants to change service. The termination liability charges can
18 make it cost prohibitive for AT&T to serve the customer. Therefore,
19 BellSouth can prevent AT&T and other CLECs from serving these
20 customers. If this Commission approves BellSouth's proposal, then
21 BellSouth ultimately ends up with what it wanted all along - CLECs would

1 not be able to use network elements to serve customers who are currently
2 served through special access service. The Commission should not allow
3 CLECs to be penalized when converting the purchase of special access
4 services to network elements.

5

6 **Q. IS AT&T CANCELING SERVICE PURCHASED FROM**
7 **BELLSOUTH?**

8 A. No. AT&T is seeking to convert the existing tariffed services to network
9 elements or combinations of network elements. The customers will still
10 receive the same service from AT&T and the service provided by BellSouth
11 to AT&T will remain the same.

12

13 **Q. WHAT IS AT&T ASKING THIS COMMISSION DO?**

14 A. AT&T requests that this Commission order that no cancellation charges will
15 be applied when AT&T requests to convert services purchased out of
16 BellSouth's tariffs to network elements, including combinations of network
17 elements.

18

19 **ISSUE 7: HOW SHOULD AT&T AND BELLSOUTH**
20 **INTERCONNECT THEIR NETWORKS IN ORDER TO ORIGINATE**
21 **AND COMPLETE CALLS TO END-USERS?**

(UNE Remand"), Supplemental Order Clarification, CC No. 96-98, FCC 00-183 (Rel. June 2, 2000).

1 **Q. BRIEFLY DESCRIBE THE ISSUE REGARDING NETWORK**
2 **ARCHITECTURE.**

3 A. This issue concerns a dispute about whether BellSouth should be responsible
4 for the costs of originating, transporting, and terminating local calls from its
5 own customers to AT&T customers in Kentucky. BellSouth has inaccurately
6 portrayed this as a question of whether its subscribers should pay for the
7 design of the AT&T network in Kentucky. I want to dispel that myth at the
8 outset: the AT&T proposal will not in any way impose any additional
9 financial burden on any BellSouth customers in Kentucky.

10 Indeed, the real question is whether AT&T should be forced to design its
11 network less efficiently and whether its customers bear the costs of doing so
12 simply because BellSouth refuses to transport its own originating traffic as it
13 is required to do, as it has historically done, and as it continues to do for calls
14 to its own customers. The focus of this issue should be on the harm to
15 competition and consumers caused by the BellSouth proposal and on the
16 illegality of the BellSouth proposal under the Telecommunications Act of
17 1996 (the "Act") and FCC regulations.

18

19 **Q. WHAT HAS GIVEN RISE TO THIS ISSUE?**

20 A. In order to interconnect the BellSouth and AT&T networks, the two parties
21 must deploy Interconnection Facilities between the switches serving AT&T's
22 customers and the end office switches serving BellSouth customers and the

1 subtending BellSouth tandem switches.⁹ The parties must then establish
2 trunking between these switches for the efficient routing of interconnection
3 traffic.

4 As I explain in greater detail below, to effectively compete for local exchange
5 customers in Kentucky, AT&T has designed and deployed a network
6 architecture that is substantially different than the embedded BellSouth
7 network. This means that some calls from BellSouth customers to AT&T
8 customers must be transported beyond the BellSouth local calling areas to be
9 delivered to the AT&T switch serving the terminating AT&T customers.
10 Despite unequivocal legal obligations requiring each party to bear the cost to
11 transport and terminate its own traffic, BellSouth objects to bearing any costs
12 for Interconnection Facilities beyond the BellSouth local calling areas. This
13 is true even though both parties have agreed that calls within each LATA will
14 be considered local for purposes of reciprocal compensation. This means that
15 BellSouth is proposing that AT&T bear the cost of transporting BellSouth's
16 own traffic from BellSouth's calling areas to AT&T's switch for completion
17 of such calls to AT&T's customers.

18

19 **Q. WHAT IS BELL SOUTH'S POSITION ON THIS ISSUE?**

⁹ Interconnection Facilities are the physical transmission channels that transport traffic between the AT&T and BellSouth switches that are used for local and intraLATA toll traffic. Facilities should be differentiated from trunks or trunk groups, which are the logical connections between two switches permitting traffic to be routed in an efficient manner. Trunks are established over working facilities.

1 A. BellSouth's position is that it is not responsible for all of the costs of
2 originating, transporting, and terminating its own traffic for calls from its
3 customers to AT&T customers. Rather, BellSouth asserts that it should have
4 the unilateral and arbitrary right to designate a point within each of its
5 Kentucky local calling areas where its responsibilities will end. Instead of
6 transporting its own calls to their terminating (switch) destinations, BellSouth
7 will only deliver its local and intraLATA traffic to the points designated by
8 BellSouth and will require AT&T to bear the cost of transporting and
9 terminating BellSouth's traffic beyond those points. Meanwhile, BellSouth
10 wants AT&T to be financially responsible for delivering AT&T's originating
11 traffic to each and every BellSouth end office, and BellSouth also wants
12 AT&T to be financially responsible for picking up BellSouth's originating
13 traffic in each and every BellSouth local calling area. Thus, according to
14 BellSouth, AT&T is financially responsible for delivering its own originating
15 calls (calls from its customers to BellSouth customers) into every BellSouth
16 end office, but BellSouth is not financially responsible for delivering its
17 originating beyond the boundaries of its local calling areas to the location of
18 the AT&T switch.

19

20 **Q. WHAT IS AT&T'S POSITION ON THIS ISSUE?**

21 A. AT&T's position is that the responsibility for originating, transporting, and
22 terminating traffic should be mutual and that each party should be financially
23 responsible for transporting its own originating traffic to a comparable point

1 on the terminating party's network (i.e. the other party's switch serving the
2 terminating customer). AT&T, and all CLECs, should be permitted to choose
3 the most efficient interconnection point, as the law allows. CLECs should
4 not have to design their networks less efficiently, and their customers should
5 not shoulder the burden of higher costs simply because BellSouth refuses to
6 transport its own originating traffic as it is required to.

7

8 **Q. WHAT SHOULD THE COMMISSION DO?**

9 A. The Commission should adopt AT&T's network interconnection proposal.
10 This proposal imposes on both parties the same relative obligations to
11 transport and terminate traffic (i.e., equivalent interconnection). The
12 Commission should thus continue to incorporate the longstanding policy that
13 the originating party pays for the cost of its own traffic. Unlike BellSouth's
14 proposal, which places unequal obligations on the parties, substantially
15 advantaging BellSouth, AT&T's proposal establishes equivalent
16 interconnection, giving no party any advantage over the other.

17

18 **Q. YOU MENTIONED THAT BELLSOUTH'S AND AT&T'S NETWORK**
19 **ARCHITECTURES ARE SUBSTANTIALLY DIFFERENT. WHAT**
20 **DO YOU MEAN BY THIS STATEMENT?**

21 A. AT&T's and BellSouth's networks are similar in the sense that the two
22 networks cover comparable geographic areas. This matter is discussed in
23 greater detail later in my testimony under Issue 9. Beyond this one similarity,

1 however, the two networks are substantially different with respect to their
2 architecture.

3 BellSouth's network is a multi-layer or tiered network. BellSouth has many
4 end office switches spread out over its service area and installed in the
5 neighborhoods populated by its customers. These end office switches are
6 interconnected by an overlying network of tandems. When certain volume
7 levels are achieved and it is cost effective, BellSouth uses high-capacity
8 trunks that directly link certain end office switches (bypassing the tandems).
9 BellSouth's network architecture is depicted in Exhibit GRF-1 to my
10 testimony. This hierarchical or layered network was deployed when there
11 were limited transport options on the end-user side of the switch, resulting in
12 many switches deployed in the neighborhood (thus, keeping loop lengths
13 relatively short), as was dictated by the technology of the times. As I
14 understand it, BellSouth finds the use of its tandem switches to be the least
15 costly method of interconnecting many end offices until certain traffic
16 thresholds are achieved between two end offices, and only then is it more
17 efficient for BellSouth to directly connect the two end offices. This
18 arrangement recognizes that BellSouth's tandem facilities (both switch and
19 common shared transport) are less expensive to utilize for occasional use than
20 the capacity commitment associated with dedicated transport, until enough
21 traffic is develops to fill the dedicated transport.

22

23 **Q. WHAT ABOUT AT&T'S NETWORK?**

1 A. AT&T, in contrast to BellSouth, began its local telephony deployment only
2 recently. Therefore, AT&T's switches¹⁰ are deployed consistent with the
3 costs and efficiencies of today's technology. Currently, AT&T has a menu of
4 options that are capable of economically connecting end users located
5 relatively far from a switch. These options include: (1) high capacity fiber
6 optic rings to commercial buildings and multiple dwelling units; (2) fixed
7 wireless technology now being beta tested (although this technology would
8 likely come under a different (CMRS) interconnection agreement), (3) UNE
9 loop resale through AT&T collocation in BellSouth end offices, and (4)
10 dedicated high-capacity facilities (in some cases using special access services
11 purchased from BellSouth but more appropriately through combinations of
12 UNEs). Due to the very high initial cost of switching platforms as compared
13 to the lower incremental cost of high-capacity facilities, AT&T has chosen to
14 deploy fewer switches and more transport on the end-user side of the switch.
15 (Even where AT&T has determined the need for multiple switches within a
16 LATA, they are often collocated within the same building.) The distinction
17 between the two networks is that while BellSouth deploys tandems first and
18 then grows into high use dedicated trunking between offices, AT&T deploys
19 a single switch combined with long transport on the end-user side of the
20 switch, because that combination is incrementally less costly than adding a

¹⁰ Although AT&T switches normally provide both an end office and tandem function and are really multi-function switches, I will refer to them in this testimony simply as "switches." In AT&T's proposed Interconnection Agreement, they are referred to as "switch centers."

1 new switch in each part of a market. AT&T's network architecture is
2 depicted in Exhibit GRF-2 to my testimony.
3 Consistent with AT&T's architecture, there are certain LATAs in which
4 AT&T has not physically deployed a switch within the LATA. Moreover,
5 AT&T has agreed that in such cases, AT&T will establish at least one
6 physical Point of Interconnection (POI)¹¹ within the LATA, and AT&T will
7 provide all of the facilities (for both originating and terminating traffic)
8 between its switch and such POI. Where AT&T has chosen not to deploy a
9 switch within a LATA, the POI will be treated as if it were an AT&T switch
10 (i.e., AT&T has virtually extended its switching functionality into the LATA
11 to the POI). The AT&T architecture, therefore, provides a switch (or
12 switching presence) in every BellSouth LATA. Further, although AT&T
13 believes it has the legal right to establish a POI at the most efficient,
14 technically feasible point, AT&T is willing, under its proposal, to establish at
15 least two physical POIs within each LATA where BellSouth provides service
16 today unless there is a de minimus volume of traffic across the LATA.

17

18 **Q. WHY DIDN'T AT&T DEPLOY A NETWORK ARCHITECTURE**
19 **THAT IS SIMILAR TO BELLSOUTH'S?**

20 A. Considering the number of customers AT&T serves, the volume of AT&T's
21 traffic these customers generate, and the geographic dispersion of these

1 customers, the BellSouth network architecture would be highly inefficient for
2 AT&T. Yet, that is exactly what BellSouth proposes: that AT&T be required
3 to replicate the BellSouth network architecture for network interconnection,
4 or at least be required to incur the cost that would be associated with
5 replicating the BellSouth architecture.

6

7 **Q. WHY WOULD BELLSOUTH'S PROPOSAL REQUIRE AT&T TO**
8 **REPLICATE BELLSOUTH'S NETWORK?**

9 A. BellSouth has a sufficient volume of traffic within and between each of its
10 local calling areas to cost justify trunking to those areas and has designed its
11 network accordingly. AT&T may or may not have a sufficient volume of
12 traffic between each BellSouth local calling area to cost justify trunking to
13 those areas. As AT&T enters a new market, it starts with few or no
14 customers. In such circumstances, AT&T certainly would not have a
15 sufficient volume of traffic to cost justify end office trunking to such local
16 calling areas or justify the capital needed to build out AT&T's network. In
17 these areas, the most efficient method for AT&T to interconnect to the
18 BellSouth network for AT&T's traffic would be through a BellSouth tandem
19 switch, where AT&T may establish a POI. It would be highly inefficient for
20 AT&T to establish trunk groups by leasing them from BellSouth or build
21 network by constructing and installing our own facilities where the volume of

¹¹ As used in this testimony POI means the physical point at which the two networks are

1 AT&T traffic does not justify such leasing or construction of facilities.
2 AT&T should be permitted to determine the most cost efficient method of
3 interconnection for itself, regardless of the volumes of traffic that BellSouth
4 may have with or between certain local calling areas.

5

6 **Q. WHAT WOULD BE THE CONSEQUENCES OF REQUIRING AT&T**
7 **TO INTERCONNECT WITHIN EACH LOCAL CALLING AREA?**

8 A. Such a requirement would have two adverse affects on Kentucky consumers.
9 First, they would lose the benefits of the efficient network architectures
10 deployed by AT&T and other CLECs, producing higher network costs.
11 Second, it would shift to CLEC consumers the transport costs that BellSouth
12 is required to lawfully bear under the Act. The interconnection arrangement
13 proposed by BellSouth would be extremely unfair to CLEC consumers,
14 substantially more favorable to BellSouth and would suppress investment in
15 competitive facilities. The higher costs that CLEC consumers would be
16 forced to bear under BellSouth's proposal would make those Kentucky
17 markets that would have been marginally profitable under AT&T's
18 interconnection proposal, uneconomic to serve. Simply put, BellSouth's
19 interconnection proposal is harmful to competition in Kentucky. AT&T has
20 proposed, and my testimony explains, that the interconnection arrangement
21 adopted by the Commission should be neutral to either party's network

interconnected for the mutual exchange of traffic.

1 architecture (i.e., each party should have the same relative obligations when it
2 is in the role of originating carrier) and require each party to bear the costs to
3 transport and terminate its own traffic.

4

5 **Q. DO YOU HAVE DIAGRAMS THAT DEPICT THE COSTS**
6 **ASSOCIATED WITH ORIGINATING, TRANSPORTING AND**
7 **TERMINATING TRAFFIC AS YOU DESCRIBE IN YOUR**
8 **TESTIMONY?**

9 A. Yes. Exhibit GRF-3 to my testimony depicts the costs that an ILEC incurred
10 to complete a call prior to the Act. Exhibit GRF-4 to my testimony depicts
11 the costs that an originating carrier is expected to incur to compete a call
12 between competing LECs under the Act. Exhibit GRF-4 also depicts
13 AT&T's proposed interconnection arrangement. Please note that in GRF-4
14 the costs are allocated between the parties in the exact same manner when
15 each party is in the position of originating carrier and again as the terminating
16 carrier.

17 Exhibit GRF-5 depicts BellSouth's interconnection proposal. If you compare
18 how the transport costs are allocated to each party in this diagram, it is clear
19 that the BellSouth interconnection proposal is not reciprocal and that it is
20 BellSouth that has shifted a large portion of its interconnection costs to
21 AT&T. Exhibit GRF-5 shows that AT&T would bear all of the costs to
22 deliver its traffic to the BellSouth network when AT&T is the originating

1 carrier and that AT&T again would bear all of the costs to carry BellSouth 's
2 traffic back to the AT&T network when BellSouth is the originating carrier.

3

4 **Q. WHY IS BELLSOUTH'S PROPOSED INTERCONNECTION**
5 **ARRANGEMENT UNFAIR TO AT&T AND ITS CUSTOMERS?**

6 A. Under BellSouth's proposed interconnection arrangement, AT&T and
7 BellSouth would have substantially inequitable obligations to provide
8 interconnection facilities. AT&T would be financially responsible for the
9 delivery of its traffic to each BellSouth end office, and BellSouth would
10 deliver its traffic to AT&T no further than its own local calling areas. This
11 situation is unfair to AT&T and its customers, because the parties do not have
12 reciprocal interconnection obligations, even though the BellSouth and AT&T
13 networks cover geographically comparable areas and have symmetrical
14 compensation rates.

15

16 **Q. WHY SHOULD THE COMMISSION REQUIRE AT&T AND**
17 **BELLSOUTH TO INTERCONNECT ON AN EQUIVALENT BASIS?**

18 A. First of all, as I discuss below, the law requires it. Moreover, as I have
19 previously stated, AT&T's network covers a comparable geographic area to
20 BellSouth's network. This is supported by the evidence provided under Issue
21 9. If a CLEC has only a small network and only offers services over a small
22 geographic area or only to an exclusive group of customers, then that CLEC's
23 network would not be comparable to BellSouth's network. But AT&T has

1 made substantial network investments in Kentucky and AT&T offers its local
2 exchange services without regard to location. Therefore, the Commission
3 should require that the BellSouth and AT&T networks be interconnected on
4 an equivalent basis.

5 BellSouth's interconnection proposal completely disregards the geographic
6 comparability of the two networks. Ignoring the legitimacy of AT&T's
7 network architecture, BellSouth proposes that the two networks be
8 interconnected solely on the basis of *BellSouth's* network architecture. In
9 other words, BellSouth is asking the Commission to ascribe an arbitrary
10 primary status upon BellSouth's network. BellSouth may believe that its
11 network is entitled to this arbitrary status because it pre-existed local
12 telephone competition or is based on a traditional hierarchical network
13 architecture, but the Commission should not be led into making such a
14 decision.

15

16 **Q. SHOULD THE BELLSOUTH LOCAL CALLING AREA BE THE**
17 **BASIS FOR INTERCONNECTING THE TWO PARTIES**
18 **NETWORKS?**

19 A. No. BellSouth's local calling areas should not be the basis of network
20 interconnection. First, there is no logical reason to use local calling areas.
21 BellSouth's original local calling areas were established for the purpose of
22 setting rates solely for BellSouth's customers. They bear no relationship to
23 the capacity of switches and other facilities deployed by CLECs or BellSouth.

1 Moreover, there is no such thing anymore as “a” local calling area. For some
2 time BellSouth has offered EAS plans and now even offers LATA-wide local
3 calling areas. These various calling plan options dispel any suggestion that
4 there is any real significance to the geographic scope of any given local
5 calling area. Moreover, BellSouth’s local calling areas may be subject to
6 substantial changes as BellSouth and its competitors seek competitive
7 advantages for their respective local service offerings. More fundamentally,
8 interconnection based solely on BellSouth’s local calling areas does not foster
9 competition and does not benefit consumers. To interconnect based on
10 BellSouth’s local calling areas would completely disregard the legitimacy of
11 a competitor’s local calling areas, would discourage competitors from
12 expanding local calling areas for the benefit of customers and competition,
13 and certainly would not be reciprocal. Moreover, using BellSouth’s local
14 calling areas as the basis of network interconnection substantially
15 compromises the network efficiencies of the alternative network architectures
16 deployed by AT&T, forcing AT&T into an inefficient BellSouth-look-a-like
17 interconnection arrangement, and forcing CLEC customers to bear the burden
18 of those inefficiencies.

19

20 **Q. IS AT&T IMPROPERLY ATTEMPTING TO SHIFT FACILITY**
21 **COSTS FROM AT&T TO BELL SOUTH FOR AT&T’S CUSTOMERS’**
22 **TRAFFIC THAT TERMINATES ON BELL SOUTH’S NETWORK?**

1 A. No. AT&T believes that it is responsible for the costs to originate, transport
2 and terminate its traffic. Accordingly, AT&T proposes that it should provide
3 (either lease or build) all of the facilities for its originating traffic between the
4 AT&T switch and the POI selected by AT&T, and that AT&T should
5 compensate BellSouth for any transport and switching functions provided by
6 BellSouth for the completion of AT&T's traffic in the form of reciprocal
7 compensation. Regardless of any claims by BellSouth to the contrary, AT&T
8 agrees to bear the full financial costs of its traffic.

9 Contrary to AT&T's fair, reciprocal and lawful position, BellSouth is trying
10 to shift its interconnection facility costs to AT&T. BellSouth retains the vast
11 majority of end users and the revenue these customers produce, yet BellSouth
12 seeks to avoid compensating AT&T for AT&T's costs in terminating traffic
13 from BellSouth's end-users. This provides BellSouth with an unlawful
14 competitive advantage. Accordingly, the Commission should reject the
15 BellSouth proposal and adopt the AT&T proposal.

16

17 **Q. BUT DOESN'T THE BELLSOUTH PROPOSAL REFLECT THE**
18 **ADDITIONAL COSTS THAT BELLSOUTH MUST INCUR TO**
19 **PROVIDE FACILITIES FROM ITS LOCAL CALLING AREA TO**
20 **THE AT&T SWITCH?**

21 A. No. The BellSouth proposal is nothing more than an anti-competitive
22 proposal to unilaterally designate interconnection points for
23 BellSouth-originated traffic. If BellSouth designates interconnection points

1 at end offices some distance from the AT&T point of presence, the inter-
2 carrier compensation will not be symmetrical. Indeed, BellSouth's proposal
3 confirms the FCC's conclusion that:

4 Because an incumbent LEC currently serves virtually
5 all subscribers in its local serving area, an incumbent
6 LEC has little economic incentive to assist new
7 entrants in their efforts to secure a greater share of that
8 market. An incumbent LEC also has the ability to act
9 on its incentive to discourage entry and robust
10 competition by not interconnecting its network with
11 the new entrant's network or by insisting on
12 supracompetitive prices or other unreasonable
13 conditions for terminating calls from the entrant's
14 customers to the incumbent LEC's subscribers.¹²
15

16 **Q. HOW DOES THE ACT APPLY TO THIS ISSUE?**

17 A. Prior to the passage of the Act, unless a call was directed to the operating
18 territory of another local carrier, the originating carrier was responsible for
19 the costs of originating, transporting and terminating each call, simply
20 because the call never left the originating carrier's territory or network.
21 Consistent with the originating carrier's overall financial responsibility, the
22 originating carrier collected and retained the applicable revenue.
23 With the passage of the Act, the originating carrier continues to collect and
24 keep the local exchange revenue, and where a CLEC is used to terminate the
25 call (because the terminating customer belongs to a competing LEC), the Act
26 establishes reciprocal compensation to compensate the terminating carrier for

1 its costs. However, in so doing, the Act did not alter the long-standing
2 economic model under which the originating carrier collects the local
3 exchange revenue and is responsible for the costs of originating, transporting
4 and terminating its traffic. Section 252(d)(2)(A) of the Act states:

5 [A] a state commission shall not consider the terms and
6 conditions for reciprocal compensation to be just and
7 reasonable unless... such terms and conditions provide
8 for the mutual and reciprocal recovery by each carrier of
9 costs associated with the transport and termination on
10 each carrier's network facilities of calls that originate on
11 the network facilities on the other carrier.
12

13 If the parties have unequal interconnection obligations, as proposed by
14 BellSouth, then the parties should have non-symmetrical reciprocal
15 compensation rates, so that each party would recover its respective costs to
16 transport and terminate the other party's traffic. To meet the "just and
17 reasonable" test under Section 252(d)(2)(A), the parties must have
18 comparable obligations to deliver traffic to the other party's network. If it is
19 found that one party to the Agreement is not compensated for "costs
20 associated with the transport and termination on each carrier's network
21 facilities of calls that originate on the network facilities on the other carrier",
22 then the resulting Agreement would be neither "just" nor "reasonable".
23

¹² First Report and Order, *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, 11 FCC Red. 11499 (1996) at ¶ 10 (footnote omitted), hereinafter "FCC Local Competition Order".

1 **Q. IF AT&T CHOOSES TO PLACE ONE SWITCH PER LATA,**
2 **SHOULDN'T BELLSOUTH BE ALLOWED TO PLACE ITS**
3 **INTERCONNECTION POINT AT ITS DESIRED LOCATION?**

4 A. No. The Act and FCC orders clearly allow CLECs to interconnect at any
5 technically feasible point. The single switch presence per LATA allows new
6 entrants to grow their business economically without having to duplicate
7 BellSouth's existing network. If Congress had wanted BellSouth to have the
8 ability to designate interconnection points and CLECs to bear the same duty
9 in establishing interconnection points that BellSouth has, it would have
10 specifically stated that outcome, rather than separating out the
11 interconnection obligations to apply only to incumbent LECs under Section
12 251(c)(2).

13
14 **Q. HAS THE FCC PROVIDED ANY GUIDANCE ON THIS ISSUE?**

15 A. Yes. This issue has two sub-parts. First, should BellSouth have the right to
16 designate the point on BellSouth's network within its own local calling area
17 where it will deliver its local and intraLATA traffic to AT&T? Second, how
18 should the costs of Interconnection Facilities be allocated between the
19 parties? The FCC has spoken on both of these issues.

20
21 **Q. DO EXISTING FCC RULES ALLOW BELLSOUTH TO DESIGNATE**
22 **THE POINT ON ITS NETWORK WHERE AT&T MUST ACCEPT**
23 **BELLSOUTH'S TRAFFIC?**

1 A. No. FCC regulations do not allow BellSouth or any ILEC the right to
2 designate the point at which the other party must “pick up” the ILEC’s traffic.
3 To the contrary, Rule 51.305(a)(2) obligates BellSouth to allow
4 interconnection by a CLEC at any technically feasible point. In its Local
5 Competition Order, the FCC explained:

6 The interconnection obligation of section 251(c)(2),
7 discussed in this section, allows competing carriers to
8 choose the most efficient points at which to exchange
9 traffic with incumbent LECs, thereby lowering the
10 competing carriers' costs of, among other things, transport
11 and termination of traffic.¹³
12

13 The FCC identified the Act as the source of these differing obligations:

14 Section 251(c)(2) does not impose on non-incumbent LECs
15 the duty to provide interconnection. The obligations of
16 LECs that are not incumbent LECs are generally governed
17 by sections 251(a) and (b), not section 251(c). Also, the
18 statute itself imposes different obligations on incumbent
19 LECs and other LECs (i.e., section 251(b) imposes
20 obligations on all LECs while section 251(c) obligations
21 are imposed only on incumbent LECs).¹⁴
22

23 **Q. DOES THE FACT THAT THERE IS NO PROHIBITION AGAINST**
24 **ILECS DETERMINING TECHNICALLY FEASIBLE**
25 **INTERCONNECTION POINTS GIVE THEM THE RIGHT TO DO**
26 **SO?**

¹³ FCC Local Competition Order at ¶ 172 (emphasis added).

¹⁴ Id. at ¶ 220.

1 A. No. As noted above, the interconnection obligations of LECs and ILECs are
2 specifically identified in the Act. BellSouth may not assume some authority
3 that is not provided for in the Act. BellSouth has claimed in other
4 proceedings that its should be permitted to designate the point where AT&T
5 must pick up BellSouth's traffic so that BellSouth may avoid the transport
6 costs at issue. However, the FCC's statement is clear. The CLEC has the
7 right to designate the point at which traffic is exchanged, "thereby lowering
8 the competing carriers' costs." The FCC reiterated its reasoning in
9 connection with an interconnection dispute in Oregon, where the FCC
10 intervened and urged the court to reject US West's argument that the Act
11 requires competing carriers to interconnect in the same local exchange in
12 which it provides local service. The FCC explained:

13 Nothing in the 1996 Act or binding FCC regulations
14 require a new entrant to interconnect at multiple locations
15 within a single LATA. Indeed, such a requirement could-
16 be so costly to new entrants that it would thwart the Act's
17 fundamental goal a opening of opening local markets to
18 competition.¹⁵
19

20 More recently, in its order on SBC's 271 application for Texas, the FCC
21 made clear its view that under the Telecommunication Act, CLECs have the
22 legal right to designate the most efficient point at which to exchange traffic.

23 As the FCC explained:

¹⁵ Memorandum of the FCC as Amicus Curiae at 20-21, *US West Communications Inc. v. AT&T Communications of the Pacific Northwest, Inc.*, (D. Or. 1998) (No. CV 97-1575- JE) (emphasis added).

1
2
3
4
5

New entrants may select the most efficient points at which to exchange traffic with incumbent LECs, thereby lowering the competing carriers' cost of, among other things, transport and termination.¹⁶

6

The FCC was very specific:

7
8
9
10
11
12

Section 251, and our implementing rules, require an incumbent LEC to allow a competitive LEC to interconnect at any technically feasible point. This means that a competitive LEC has the option to interconnect at only one technically feasible point in each LATA.

13
14
15

Q. WHAT HAS THE FCC PROVIDED ON HOW COSTS OF INTERCONNECTION FACILITIES SHOULD BE ALLOCATED BETWEEN THE PARTIES?

16
17
18
19

A. 47 C.F.R. § 51.703(b) very clearly provides: "A LEC may not assess charges on any other telecommunications carrier for local telecommunications traffic that originates on the LEC's network."

20

Further, 47 C.F.R. § 51.709(b) reads:

21
22
23
24
25
26
27

The rate of a carrier providing transmission facilities dedicated to the transmission of traffic between two carriers' networks shall recover only the costs of the proportion of that trunk capacity used by an interconnecting carrier to send traffic that will terminate on the providing carrier's network.

¹⁶ Memorandum Report and Order, *Application of SBC Communications Inc., Southwestern Bell Telephone Company and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance, Pursuant to Section 271 of the Telecommunications Act of 1996 To Provide In-Region InterLATA Services in Texas*, CC Docket No. 00-65 at ¶ 78 (June 30, 2000).

1 In its Local Competition Order, the FCC explained:

2 The amount an interconnecting carrier pays for dedicated
3 transport is to be proportional to its relative use of the
4 dedicated facility. For example, if the providing carrier
5 provides one-way trunks that the inter-connecting carrier
6 uses exclusively for sending terminating traffic to the
7 providing carrier, then the inter-connecting carrier is to pay
8 the providing carrier a rate that recovers the full forward-
9 looking economic cost of those trunks. The inter-
10 connecting carrier, however, should not be required to pay
11 the providing carrier for one-way trunks in the opposite
12 direction, which the providing carrier owns and uses to
13 send its own traffic to the inter-connecting carrier.¹⁷
14

15 A simple hypothetical example should make the application of this rule clear.
16 If there were a sufficient volume of traffic between an AT&T switch and a
17 certain BellSouth end office, AT&T would elect to establish one-way trunks
18 between the two switches to deliver AT&T's originating traffic. The least
19 costly method for AT&T to obtain the transport needed for such trunks may
20 be to lease the capacity from BellSouth as dedicated transport. BellSouth
21 would also need to establish one-way trunks between the same two switches
22 for its originating traffic. BellSouth almost certainly will establish such
23 trunks on its own facilities. What we end up with is a single BellSouth
24 facility system between the AT&T and BellSouth switches that is used to
25 carry both AT&T's one-way trunks and BellSouth's one-way trunks. What
26 the FCC is saying in C.F.R. 51.709(b) is that BellSouth may only recover the
27 cost of the proportion of that trunk capacity used by AT&T between the two

¹⁷ FCC Local Competition Order at ¶ 1062 (emphasis added).

1 switches to send traffic that will terminate on BellSouth's network. AT&T
2 agrees that it would pay for the transport for its one-way trunks. However,
3 contrary to 47 C.F.R. 51.709(b), what BellSouth proposes is to recover the
4 costs of *both* AT&T's portion *and* the costs of the proportion of that trunk
5 capacity used by BellSouth to send traffic that will terminate on AT&T's
6 network. This would be especially onerous to AT&T when the volume of
7 traffic originated on BellSouth's network far exceeds the volume of traffic
8 that is originated on AT&T's network.

9 The situation is identical when AT&T elects to route traffic via a BellSouth
10 tandem switch rather than via direct end office trunks. Again, AT&T agrees
11 to pay BellSouth for the one-way trunk capacity needed to transport AT&T's
12 traffic between the AT&T switch and the BellSouth tandem; however, AT&T
13 should not be required to pay BellSouth for one-way trunks in the opposite
14 direction, which BellSouth owns and uses to send its own traffic to AT&T.

15

16 **Q. HAS THE FCC ISSUED ANY DECISIONS ON THIS ISSUE?**

17 A. Yes. In *In re TSR Wireless, LLC, et. al., v. U.S. West*, file Nos. E-98-13, et.
18 al., FCC 00-194 (June 21, 2000) (appeal pending), several paging carriers
19 alleged that US West and other ILECs had improperly imposed charges for
20 facilities used to deliver LEC-originated traffic. The paging carriers based
21 their complaint on 47 C.F.R. § 51.703(b) and sought an order from the FCC
22 prohibiting the ILECs from charging for dedicated and shared transmission
23 facilities used to deliver LEC-originated traffic. The FCC agreed with the

1 paging carriers. In its Order, after finding (1) that paging carriers provide
2 telecommunications and are thus included within the scope of the rules
3 governing reciprocal compensation (47 C.F.R. § 701(e)) and (2) that paging
4 carriers “switch” and “terminate” traffic within the meaning of those rules,
5 the FCC determined that “any LEC efforts to continue charging CMRS or
6 other carriers for delivery of such [LEC-originated] traffic would be unjust
7 and unreasonable.” Accordingly, the FCC concluded that the ILECs “may
8 not impose upon Complainants charges for the facilities used to deliver LEC-
9 originated traffic to Complainants.”

10 Additionally, the FCC just reiterated its position in its order granting
11 interLATA relief to SBT in Oklahoma. In that order, the FCC states:

12 Technically Feasible Points of Interconnection

13 232. We conclude that SWBT provides interconnection at all
14 technically feasible points, including a single point of interconnection,
15 and therefore demonstrates compliance with the checklist item.
16 SWBT asserts that it makes each of its standard methods of
17 interconnection available at the line side or trunk side of the local
18 switch, the trunk connection points of a tandem switch, central office
19 cross-connect points, out-of-band signaling transfer points, and points
20 of access to UNEs.¹⁸ SWBT demonstrates that it has state-approved
21 interconnection agreements that spell out readily available points of
22 interconnection, and provide a process for requesting interconnection
23 at additional, technically feasible points.¹⁹ SWBT further shows that,
24 for purposes of interconnection to exchange local traffic, a

¹⁸ SWBT Application at 76; SWBT Deere Aff. at paras. 15; 21-22. SWBT will provide other technically feasible alternatives using the Special Request Procedure set forth in the K2A and O2A. *Id.* at 15; 84-88.

¹⁹ SWBT Application at 76. SWBT’s state-approved K2A and O2A require SWBT to provide other collocation arrangements that have been demonstrated to be technically feasible and in compliance with the *Advanced Services Order*.

1 competitive LEC may choose a single, technically feasible point of
2 interconnection within a LATA.²⁰

3 233. Some commenters argue that SWBT effectively denies a
4 competing carrier the right to select a single point of interconnection
5 by improperly shifting to competing carriers inflated transport and
6 switching costs associated with such an arrangement.²¹ For example,
7 AT&T avers that, in a technical conference in Oklahoma after the
8 adoption of the O2A, SWBT advanced several compensation
9 arrangements relating to a competing carrier's choice of
10 interconnection and collocation which require AT&T to pay inflated
11 transport costs upon exercising its right to a single point of
12 interconnection.²² SWBT responds that AT&T largely
13 misunderstands the positions it advanced at the technical conference,
14 and that AT&T's claims are best addressed at the state level through
15 the negotiation and arbitration process.²³ SWBT further argues that
16 the Commission previously determined that carriers seeking a single
17 point of interconnection should bear any additional cost associated
18 with taking traffic to and from the point of interconnection in the
19 other exchange.²⁴

20 234. Because these commenters, including AT&T, take issue only
21 with positions advanced by SWBT in a technical conference, we find
22 that the issues raised are hypothetical ones, and therefore do not
23 warrant a finding of non-compliance with checklist item 1. Although
24 SWBT's interpretation of the state-approved interconnection
25 agreement raises potential future compliance issues regarding the
26 interplay between a single point of interconnection and reciprocal
27 compensation, our review must be limited to present issues of

²⁰ In compliance with our *SWBT Texas Order*, SWBT modified the language of its K2A and O2A to allow a carrier to choose a single point of interconnection in a LATA. See *SWBT Texas Order*, 15 FCC Red 18390, para. 78; see also SWBT Application at 76; SWBT Decree Aff. at para. 5, 14, 66.

²¹ AT&T Comments at 24; see also Cox Comments at 10; WorldCom Reply at 38.

²² See AT&T Comments, Attachment 2 at 14-20.

²³ See SWBT Reply at 77-87.

²⁴ *Id.* at 86. SWBT relies on the following language from its Texas interconnection agreement with WorldCom: "MCI(WorldCom) and SWBT agree that MCI(WorldCom) may designate, at its option, a minimum of one point of interconnection within a single SWBT exchange where SWBT facilities are available, or multiple points of interconnection within the exchange, for the exchange of all traffic within that exchange. If WorldCom desires a single point for interconnection within a LATA, SWBT agrees to provide dedicated or common transport to any other exchange within a LATA requested by WorldCom, or WorldCom may self-provision, or use a third party's facilities." See *SWBT Texas Order*, 15 FCC Red 18390, para. 78 n. 174.

1 compliance.²⁵ Indeed, we understand that AT&T has filed for
2 arbitration of these issues in Oklahoma.²⁶ To the extent that the
3 parties believe that this is a matter requiring more explicit rules, we
4 invite them to file a petition for declaratory ruling or petition for
5 rulemaking with the Commission.

6 235. Finally, we caution SWBT from taking what appears to be an
7 expansive and out of context interpretation of findings we made in our
8 *SWBT Texas Order* concerning its obligation to deliver traffic to a
9 competitive LEC's point of interconnection.²⁷ In our *SWBT Texas*
10 *Order*, we cited to SWBT's interconnection agreement with MCI-
11 WorldCom to support the proposition that SWBT provided carriers
12 the option of a single point of interconnection.²⁸ We did not,
13 however, consider the issue of how that choice of interconnection
14 would affect inter-carrier compensation arrangements. Nor did our
15 decision to allow a single point of interconnection change an
16 incumbent LEC's reciprocal compensation obligations under our
17 current rules.²⁹ For example, these rules preclude an incumbent LEC
18 from charging carriers for local traffic that originates on the
19 incumbent LEC's network.³⁰ These rules also require that an
20 incumbent LEC compensate the other carrier for transport³¹ and
21 termination³² for local traffic that originates on the network facilities
22 of such other carrier.³³

23

24 **Q. WHY SHOULD THE COMMISSION ADOPT AT&T'S SOLUTION?**

²⁵ *SWBT Texas Order*, 15 FCC Rcd 18367, para. 27.

²⁶ See Oklahoma Commission Reply at 16. We also note that in its Reply, SWBT makes certain concessions regarding future interpretation of certain language in the O2A and K2A that is at issue. For example, in response to AT&T's argument that SWBT requires a CLEC collocated in a SWBT end office to interconnect there by provisioning direct trunks, AT&T Comments at 28, SWBT concedes that the proper reading of the O2A and K2A is that direct trunking from the CLEC's collocation facility is an option, not a requirement. See SWBT Reply at 81.

²⁷ See SWBT Reply at 86-87.

²⁸ See *SWBT Texas Order*, 15 FCC Rcd 18390, para. 78 n. 174.

²⁹ See 47 C.F.R. §§ 51.701 *et seq.*

³⁰ 47 C.F.R. § 51.703(b); see also *TSR Wireless, LLC et al. v. U.S. West*, File Nos. E-98-13, E-98-15, E-98-16, E-98-17, E-98-18, FCC No. 00-194 (rel. June 21, 2000), *pet. for review docketed sub nom.*, *Qwest v. FCC*, No. 00-1376 (D.C. Cir. Aug. 17, 2000).

³¹ 47 C.F.R. § 51.701(c).

³² 47 C.F.R. § 51.701(d).

³³ 47 C.F.R. § 51.701(e).

1 A. AT&T's network interconnection solution will benefit AT&T, BellSouth and
2 Kentucky consumers in the following ways:

3 **1. AT&T's solution is fair to both parties.**

4 First, both parties would establish equivalent interconnection between the
5 respective networks. Neither party would gain a substantial advantage over
6 the other, as BellSouth proposes. Second, both parties would provide
7 interconnection facilities in proportion to the interconnection traffic that it
8 delivers to the other party. Considering the geographic parity of both parties'
9 networks, it would clearly be unfair to AT&T to adopt the practice of
10 disproportional, unequal interconnection.

11 **2. AT&T's solution promotes competition.**

12 AT&T's proposal allows competing callers to use alternative network
13 architecture without any penalty. Additionally AT&T's proposal does not
14 require CLECs to duplicate the network already established by BellSouth.
15 Less costly and more efficient solutions are promoted, not discouraged.

16 **3. AT&T's solution provides flexibility to the parties.**

17 Each party would have a variety of methods that it may employ to deliver its
18 traffic to the other party's terminating switch. Parties can lease facilities from
19 one another, they can lease facilities from third parties, implement a mid-span
20 meet, or they can deliver their traffic using AT&T's facilities. Under
21 AT&T's proposal, even though not obligated to do so, AT&T is even willing
22 to offer BellSouth space, power, and site services in its switching centers,
23 compensated appropriately, so that BellSouth may use its own facilities to

1 deliver its interconnection traffic to such AT&T locations. In this way, each
2 party may determine for itself the most efficient method of interconnection
3 under the terms of the Agreement.

4 **4. AT&T's solution allows AT&T to use scarce collocation space for**
5 **interconnection to UNEs.**

6 BellSouth's proposed interconnection arrangement jeopardizes AT&T's local
7 market entry plans, because it allows BellSouth to "hand-off" its traffic at a
8 BellSouth location that may have limited or no additional collocation space.
9 AT&T has found that the smaller AT&T collocation arrangements in certain
10 BellSouth end offices are being prematurely exhausted by the transport of
11 BellSouth's interconnection traffic through such collocation space. AT&T
12 requires collocation space within BellSouth end offices so that AT&T may
13 interconnect to BellSouth's UNEs in order to fulfill its market entry plans.
14 Because of this dual need for collocation space, BellSouth's proposal forces
15 AT&T to choose between essential uses of scarce collocation space; where
16 there is an equal priority on using collocation space for network
17 interconnection and UNE combination. The result of BellSouth's proposal is
18 that in many areas AT&T's local market entry may be delayed or thwarted.
19 AT&T's solution provides for a joint transition plan that would require that
20 BellSouth's interconnection traffic to be transitioned from any existing POI
21 in jeopardized AT&T collocation space to a new POI. The Commission
22 should adopt AT&T's network interconnection solution, because, otherwise,
23 consumers served by a BellSouth end office for which AT&T's collocation

1 space is exhausted would not enjoy the same level of local exchange
2 competition as customers in unaffected areas.

3 **5. AT&T's solution is consistent with law and regulation.**

4 The FCC has made clear that ILECs do not have the right to determine where
5 CLECS must interconnect to pick up ILEC traffic. CLECs can interconnect
6 at any technically feasible point, and can select a point that is most efficient
7 to lower costs. AT&T's proposal clearly meets these requirements.

8

9 **ISSUE 9: SHOULD AT&T BE PERMITTED TO CHARGE**
10 **TANDEM RATE ELEMENTS WHEN ITS SWITCH SERVES A**
11 **GEOGRAPHIC AREA COMPARABLE TO THAT SERVED BY**
12 **BELLSOUTH'S TANDEM SWITCH?**

13 **Q. WHAT DO THE FCC REGULATIONS PROVIDE ABOUT CLEC**
14 **SWITCHES AND TANDEM RATES?**

15 A. The FCC recognizes that there is parity between a competitive carrier's end
16 office switch and an ILEC tandem switch. The FCC regulations, 47 C.F.R. §
17 51.711 (a)(3), provide:

18 Where the switch of a carrier other than an incumbent LEC
19 serves a geographic area comparable to the area served by
20 the incumbent LEC's tandem switch, the appropriate rate
21 for the carrier other than an incumbent LEC is the
22 incumbent LEC's tandem interconnection rate.
23

1 **Q. HAS THE FCC PROVIDED ANY ADDITIONAL GUIDANCE**
2 **REGARDING THE ESTABLISHMENT OF TRANSPORT AND**
3 **TERMINATION RATES?**

4 A. Yes, it has. In the Local Competition Order, the FCC stated:

5 We find that the “additional costs” incurred by a LEC when
6 transporting and terminating a call that originated on a
7 competing carrier’s network are likely to vary depending on
8 whether tandem switching is involved. We, therefore,
9 conclude that states may establish transport and termination
10 rates in the arbitration process that vary according to
11 whether the traffic is routed through a tandem switch or
12 directly to the end-office switch. In such event, states shall
13 also consider whether new technologies (e.g., fiber ring or
14 wireless networks) perform functions similar to those
15 performed by an incumbent LEC’s tandem switch and thus,
16 whether some or all calls terminating on the new entrant’s
17 network should be priced the same as the sum of transport
18 and termination via the incumbent LEC’s tandem switch.
19 Where the interconnecting carrier’s switch serves a
20 geographic area comparable to that served by the
21 incumbent LEC’s tandem switch, the appropriate proxy for
22 the interconnecting carrier’s additional costs is the LEC
23 tandem interconnection rate.³⁴
24

25 **Q. DO AT&T’S SWITCHES IN KENTUCKY COVER A GEOGRAPHIC**
26 **AREA COMPARABLE TO THE AREA COVERED BY BELLSOUTH**
27 **SWITCHES?**

28 A. Yes. AT&T offers local exchange service in Kentucky via 4ESS switches,
29 which function primarily as long distance switches, and 5ESS switches,
30 which act as adjuncts to the 4ESS switches. AT&T has the ability to connect

³⁴ FCC Local Competition Order at ¶ 1090 (emphasis added).

1 virtually any qualifying local exchange customer in Kentucky to one of these
2 switches through AT&T's dedicated access services.

3 AT&T requests that the Commission order BellSouth to pay AT&T
4 BellSouth's tandem interconnection rate for the termination of local traffic at
5 any AT&T switch. AT&T is justified in its request because the geographic
6 area covered by each switch is comparable to the area covered by BellSouth's
7 tandem switches.

8

9 **Q. HAVE YOU PREPARED ANY MATERIALS THAT WILL ASSIST**
10 **THE COMMISSION IN DETERMINING THE GEOGRAPHIC**
11 **COVERAGE OF AT&T'S SWITCHES SERVING KENTUCKY?**

12 A. To assist the Commission in understanding this issue, I have prepared two
13 maps that are marked as Exhibits GRF-6a, 6b and 6c. Exhibits GRF-6a, 6b
14 and 6c contain both color transparency maps and color copies of the same
15 maps. The transparent maps are supplied so that the reader can "overlay" the
16 maps and compare the geographic area served by AT&T and TCG switches
17 and BellSouth switches.

18 Exhibits GRF-6a³⁵ and 6b provide the number of switches AT&T and TCG
19 currently operate in Kentucky on a LATA by LATA basis. It is important to
20 note that in some cases, the AT&T switch serving a LATA is not physically
21 located in the LATA.

³⁵ On the AT&T maps, green shading depicts the areas covered by AT&T's switches.

1 Exhibit GRF-6c³⁶ shows the number of tandem switches BellSouth Kentucky
2 currently operates in Kentucky on a LATA by LATA basis. When GRF-6a.
3 6b and 6c are superimposed over each other, it becomes clear that AT&T's
4 switches cover the same (or a comparable) geographic area as that covered by
5 BellSouth's tandem switches.³⁷

6

7 **Q. WHAT ABOUT THE FUNCTIONALITY OF THE SWITCHES?**

8 A. The relevant FCC rule does not focus on tandem functionality³⁸ for purposes
9 of determining whether an ALEC meets the requirements under 47 C.F.R. §
10 51.711(a)(3). However, each AT&T switch performs certain tandem
11 functions for the respective AT&T entity. First, each of these switches acts
12 as an access tandem routing the preponderance of interLATA traffic directly
13 to the applicable interexchange carrier. Second, with respect to traffic
14 between any AT&T customer and any BellSouth customer within the same

³⁶ On the BellSouth maps, various color shading depicts areas covered by BellSouth's tandems.

³⁷ Statewide and LATA-specific maps were created by using data contained in the Local Exchange Routing Guide (LERG). The LERG, produced by Telcordia Technologies, contains routing data that supports the current local exchange network configuration within the North American Numbering Plan (NANP) as well as identifying reported planned changes in the network. The LERG data in conjunction with MapInfo V-4.1.1.2, a commercial mapping software package, was used to prepare the statewide and LATA-specific maps attached herein.

³⁸ The primary function of a tandem is the aggregation of traffic between customers calling outside their immediate exchange. As described in the preceding discussion of network architecture, the BellSouth network is comprised of a large number of end offices each serving a relatively small area. Rather than connect every end office to every other end office, BellSouth routes certain traffic to tandem switches which serve groups of end offices. Thus, a call from a BellSouth customer to someone in another rate center often will travel to a tandem switch, which has a connection to the end office switch serving the called customer. Under the BellSouth network architecture, the tandem switches aggregate traffic to be sent to other switches. Under AT&T's network architecture, AT&T's switches also perform a substantial amount of traffic aggregation and, therefore, are performing the primary function of a tandem switch.

1 LATA, AT&T has direct trunking to each BellSouth tandem in the LATA so
2 that such traffic may be completed without transiting multiple AT&T
3 switches or multiple BellSouth tandems. In other words, AT&T uses its
4 switches in the same functional manner that BellSouth uses its tandem
5 switches.

6

7 **Q. DO AT&T'S SWITCHES PROVIDE TANDEM FUNCTIONALITIES**
8 **IN THE MANNER DESCRIBED IN THE FCC'S DISCUSSION IN**
9 **THE LOCAL COMPETITION ORDER?**

10 A. Yes. As the foregoing description of AT&T switch function indicates,
11 AT&T's switches do indeed perform both end office and tandem switch
12 functions. Tandem switches generally aggregate traffic from a number of end
13 office switches for purposes of passing that traffic to other offices for
14 termination elsewhere on the network. The tandem switch is also used for
15 aggregation and processing of operator services traffic, routing traffic that is
16 to be transferred between the trunk groups of two separate carriers, and
17 measuring and recording traffic detail for billing. While BellSouth employs
18 two separate switches to accomplish these tandem and end office functions,
19 as I have shown above, AT&T's switches perform all of these functions
20 within the same switch.

21 Thus, AT&T not only has met the geographic requirements of 47 C.F.R.
22 §51.711(a)(3), but also meets a higher standard by virtue of its substantial

1 investments in physical plant and deployment of an architecture comprised of
2 network components comparable to BellSouth.

3 The Commission should, therefore, conclude that AT&T should receive the
4 tandem interconnection rate as BellSouth's reciprocal compensation for the
5 termination of its local calls by AT&T.

6

7 **ISSUE 13: WHAT IS THE APPROPRIATE TREATMENT OF**
8 **OUTBOUND VOICE CALLS OVER INTERNET PROTOCOL ("IP")**
9 **TELEPHONY, AS IT PERTAINS TO RECIPROCAL**
10 **COMPENSATION?**

11 **Q. WHAT IS VOICE OVER INTERNET PROTOCOL?**

12 A. The FCC has described IP Telephony or VOIP as "services that enable
13 real-time voice transmission using Internet protocols." The FCC has
14 observed that the service can be provided through "gateways" that enable
15 applications originating and/or terminating on the public switched
16 telecommunications network. The gateways are computers that transform the
17 circuit-switched voice signal into Internet Protocol packets and vice versa,
18 and perform associated signaling, control and address translation functions.
19 (Federal-State Joint Board on Universal Service, CC Docket No. 96-45,
20 Report to Congress, FCC 98-67, ¶ 84 (rel. April 10, 1998) ("Report to
21 Congress").

1 The phrase "Voice over Internet Protocol" can encompass a wide variety of
2 services. For instance, a voice call using Internet Protocol could be phone-to-
3 phone, computer-to-phone, phone-to-computer, or computer-to-computer. In
4 some cases it could be a voice call delivered to a World Wide Web address.
5 In other cases it could be a voice call delivered to a North American
6 Numbering Plan number or to an Internet Protocol address not on the World
7 Wide Web.

8

9 **Q. DESCRIBE THE ISSUE THAT BELL SOUTH HAS RAISED**
10 **CONCERNING INTERNET PROTOCOL TELEPHONY?**

11 A. BellSouth proposed the following language to AT&T during negotiations to
12 address this issue:

13 The origination and end point of the call shall determine the
14 jurisdiction of the call, regardless of transport protocol
15 method. Unless expressly agreed to by the Parties in this
16 Agreement, neither Party shall represent as Local Traffic
17 any traffic for which access charges may be lawfully
18 assessed. The Parties have been unable to agree as to
19 whether "Voice-over Internet Protocol" transmissions
20 ("VOIP") that cross LATA boundaries constitute Switched
21 Access Traffic. Notwithstanding the foregoing, and
22 without waiving any rights with respect to either Party's
23 position as to the jurisdictional nature of VOIP, the Parties
24 agree to abide by any effective and applicable FCC rules
25 and orders regarding the nature of such traffic and the
26 compensation payable by the Parties for such traffic, if any.
27 Until such time as there is an effective and applicable FCC
28 Rule or Order, VOIP traffic which crosses LATA
29 boundaries will be considered switched access traffic.
30

1 Under BellSouth's proposal, any type of call (phone-to-phone, computer-to
2 computer, phone to computer, computer-to-phone) that makes use of Internet
3 Protocol technology in handling the voice call, would be subject to switched
4 access charges if the call crosses LATA boundaries.

5

6 **Q. WHICH TYPE OF CALL IS BELLSOUTH ADDRESSING?**

7 A. Although BellSouth has indicated in testimony in other states that it is only
8 addressing phone-to-phone Voice over Internet Protocol calls. However, as
9 previously noted, its proposed language makes no such delineation.

10

11 **Q. DOES AT&T AGREE WITH BELLSOUTH THAT SWITCHED
12 ACCESS CHARGES SHOULD APPLY AT LEAST TO PHONE-TO-
13 PHONE INTERNET PROTOCOL TELEPHONY?**

14 A. No. AT&T's position is that Internet Protocol telephony, including phone-to-
15 phone Internet Protocol telephony, should not be subject to switched access
16 charges

17

18 **Q. WHY IS BELLSOUTH'S PROPOSAL INAPPROPRIATE FOR THE
19 REGULATION OF INTERNET PROTOCOL TELEPHONY?**

20 A. BellSouth's claim that Internet Protocol telephony or VOIP is simply "plain
21 old telephone service" that should be subject to payment of switched access
22 charges is a continuation of a monopoly trying to hold on to its monopoly
23 service. IP telephony is in its infancy. There is no need for, and this

1 Commission should not, stifle its innovation by imposing burdensome
2 regulatory rules that in fact may not even work. The nature of Internet
3 Protocol could make enforcement of traditional regulatory classification next
4 to impossible. While BellSouth argues that there is no service distinction
5 involved between Internet Protocol and circuit-switched networks, Internet
6 Protocol technology blurs traditional distinctions between local and long
7 distance service and between voice, fax, data, and video services, thereby
8 making "one-size fits all regulation" a difficult proposition. The fundamental
9 design of Internet Protocol networks converts all forms of information into
10 indistinguishable packets of digital bits. Packets are routed through networks
11 based on a non-geographical, non-hierarchical addressing scheme that allows
12 packets to follow several possible routes between network nodes. At any
13 given node, it is impossible to determine the geographic origin of an
14 incoming packet, or its destination.

15

16 **Q. HAS THE FCC ADDRESSED THE ISSUE OF REGULATING**
17 **PHONE-TO-PHONE INTERNET PROTOCOL TELEPHONY?**

18 A. Yes. On several occasions over the last two years, the FCC has taken the
19 position that phone-to-phone Internet Protocol telephony voice calls are not
20 traditional telecommunications services and should not be treated as such.
21 Specifically, the FCC has not ruled that switched access charges are
22 applicable to such calls. In its Report to Congress issued April 10, 1998, the
23 FCC declined to classify phone-to-phone IP telephony as a

1 telecommunications service. Report to Congress, ¶ 90. In April 1999, the
2 FCC declined to act on US WEST's petition asking the FCC to declare
3 phone-to-phone Internet Protocol telephony a telecommunications service.
4

5 **Q. HAS THE FCC ISSUED ANY POLICY STATEMENTS ABOUT THE**
6 **TREATMENT OF INTERNET PROTOCOL TELEPHONY?**

7 A. Yes. The Chairman of the FCC has stated that he "does not want to impose
8 'legacy' telephone regulations on any part of the Internet, including Internet
9 telephony." He further stated:

10 [I]t's important to recognize that legacy regulation is not
11 necessarily appropriate to emerging network technologies,
12 so when people start asking 'when are you going to regulate
13 IP telephony,' my answer is always the same – never.³⁹
14

15 The Chairman reiterated this position in a speech delivered on September 12,
16 2000. FCC Chairman Kennard urged regulators to decline imposing existing
17 regulatory schemes on new technologies:

18 [D]uring this transition, the answer is not to saddle nascent
19 technology with the increasingly obsolete legacy
20 regulations of the past. Their architectures fundamentally
21 differ, and so should their rules. In short, one-size
22 regulation does not fit all. It just doesn't make sense to
23 apply hundred-year old regulations meant for copper wires
24 and giant switching stations to their IP networks of today.
25 And I oppose any plan to levy any new fees or taxes on IP
26 telephony.⁴⁰
27

³⁹ *Kennard Pledges No Regulation for Internet Telephony*, WARREN'S WASHINGTON INTERNET DAILY, Vol. 1, No. 3, May 25, 2000, at 1

1 Chairman Kennard's statements not only support the conclusion that the FCC
2 has not found IP telephony to be the same as switched access traffic, but they
3 further indicate that the FCC believes there is good reason to reject labeling
4 this technological development by reference to older categories of service.
5 Accordingly, although Internet Protocol telephony provides voice calling
6 capability, BellSouth's argument that "if it looks like a duck, it must be a
7 duck" and similar comparisons should not be accepted as justification for
8 classifying new services as telecommunications services subject to applicable
9 regulation.

10

11 **Q. WHAT DOES AT&T PROPOSE THIS COMMISSION DO?**

12 A. AT&T recommends that the Commission find that Internet Protocol
13 telephony is not subject to switched access charges, and that BellSouth's
14 proposed language be rejected.

15

16 **ISSUE 21: SHOULD THE COMMISSION OR A THIRD PARTY**
17 **COMMERCIAL ARBITRATOR RESOLVE DISPUTES UNDER THE**
18 **INTERCONNECTION AGREEMENT?**

19 **Q. EXPLAIN THE ISSUE CONCERNING ALTERNATIVE DISPUTE**
20 **RESOLUTION?**

⁴⁰ Remarks by FCC Chairman Kennard before the Voice Over Net Conference, Atlanta, Georgia, September 12, 2000.

1 A. BellSouth proposes to eliminate the ability for either party to make use of a
2 third party arbitrator in order to settle disputes arising from interpreting or
3 implementing the new interconnection agreement.

4

5 **Q. WHAT IS AT&T'S PROPOSAL?**

6 A. AT&T had originally proposed the use of third party arbitrators as the
7 preferred means for dispute resolution. Recently AT&T proposed language
8 to BellSouth that would allow the dispute to go to the Commission if both
9 parties agree and also request the Commission to hear the dispute on an
10 expedited schedule. Alternatively, AT&T's language proposes that the
11 dispute can go to the alternative dispute resolution process if both parties
12 agree. If there is not agreement among the parties, then the aggrieved party
13 can choose the method of resolution. BellSouth has indicated, however, that
14 AT&T's proposed language is still unacceptable, and still prefers to have this
15 Commission resolve all disputes arising from a disagreement on what the
16 interconnection agreement requires. AT&T's proposed language states, in
17 part:

18 Upon agreement of both parties, disputes arising out of this
19 Agreement will be submitted to the Commission and both
20 parties will request the Commission to resolve the dispute on
21 an expedited schedule. An expedited scheduled request
22 would require the Commission to hear the Complaint within
23 60 days of filing. In the alternative and upon the agreement
24 of both parties, disputes arising under this contract may be
25 resolved through a dispute resolution process as outlined
26 below. If there is no agreement between the parties
27 regarding an expedited schedule for disputes submitted to the
28 Commission or for the dispute to be resolved through the

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dispute resolution process, then the aggrieved party may choose the method of resolution.

Q WHAT IS THE PURPOSE OF AT&T'S PROPOSAL?

A. The purpose of AT&T's proposed language is the expeditious resolution of disputes. If a dispute can be resolved more quickly through the alternative dispute resolution process, then AT&T would prefer the use of that method of resolution. On the other hand, if a dispute can be resolved more quickly through the Commission, then AT&T would want the Commission to hear the dispute. In fact, as I have similarly testified in the arbitration proceedings in both Georgia and North Carolina, if this Commission had rules established for hearing cases on a expedited basis, or a "rocket docket", then AT&T would agree to BellSouth's proposal to take all disputes to the Commission.

Q. WHY SHOULD THE COMMISSION ADOPT AT&T'S, AS OPPOSED TO BELLSOUTH'S PROPOSAL?

AT&T's proposal is a more reasonable and realistic approach to dispute resolution. It allows both parties a vote in whether the dispute goes to alternative dispute resolution or to the Commission. If one party votes for the dispute to go to the Commission and the other for alternative dispute resolution, then the aggrieved party can choose. AT&T's proposal also allows for the quickest resolution of the dispute. Often, service-affecting disputes arise under these interconnection agreements that require immediate resolution. In such circumstances, it may not be feasible to take the dispute

1 to the Commission if the Commission has a full calendar and would be
2 unable to have a hearing for nine to twelve months. Accordingly,
3 BellSouth's proposal that all disputes go to the Commission results in too
4 much uncertainty as to when a final decision would be reached on any given
5 dispute.

6

7 **Q. WHAT DOES AT&T PROPOSE THIS COMMISSION DO?**

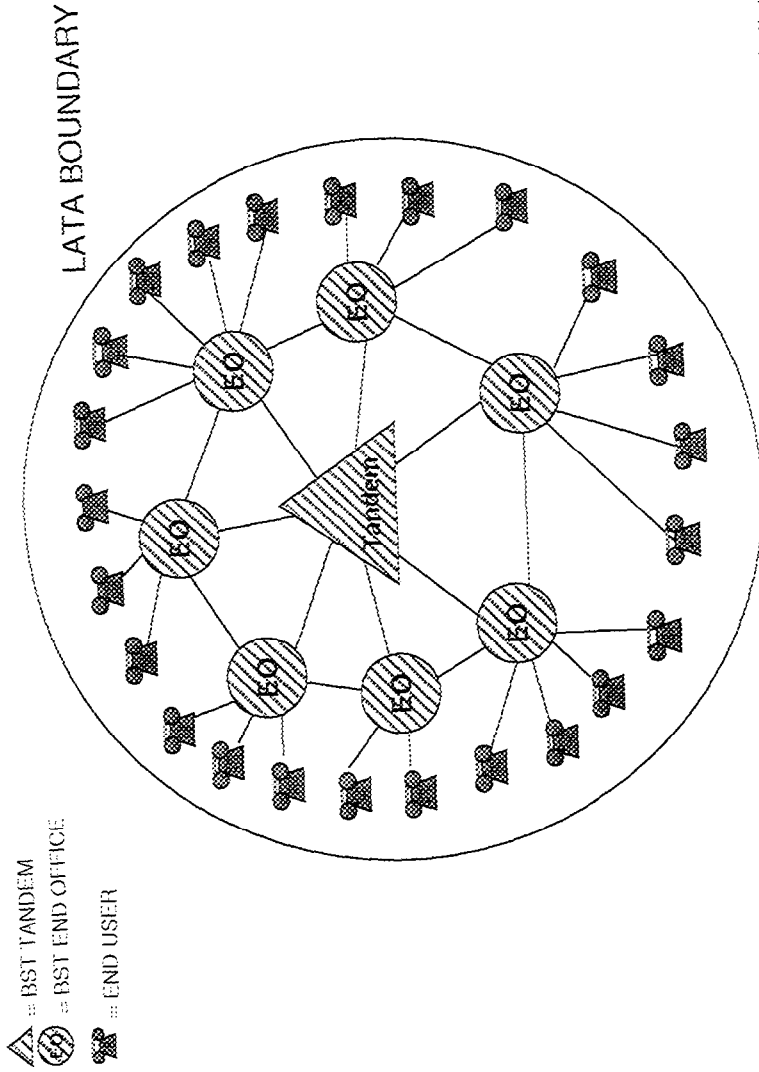
8 A. AT&T requests that this Commission adopt AT&T's language allowing the
9 parties an option of submitting disputes arising under the interconnection
10 agreement to the Commission or to an alternative dispute resolution process.

11

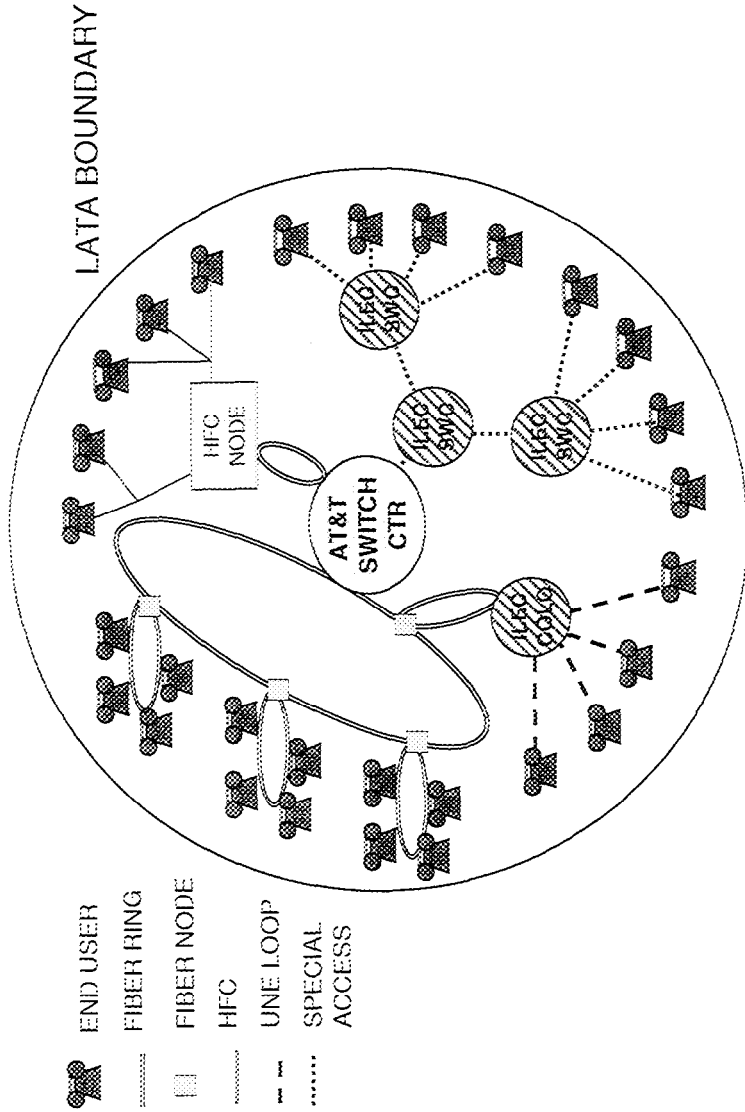
12 **Q. DOES THAT CONCLUDE YOUR TESTIMONY?**

13 A. Yes.

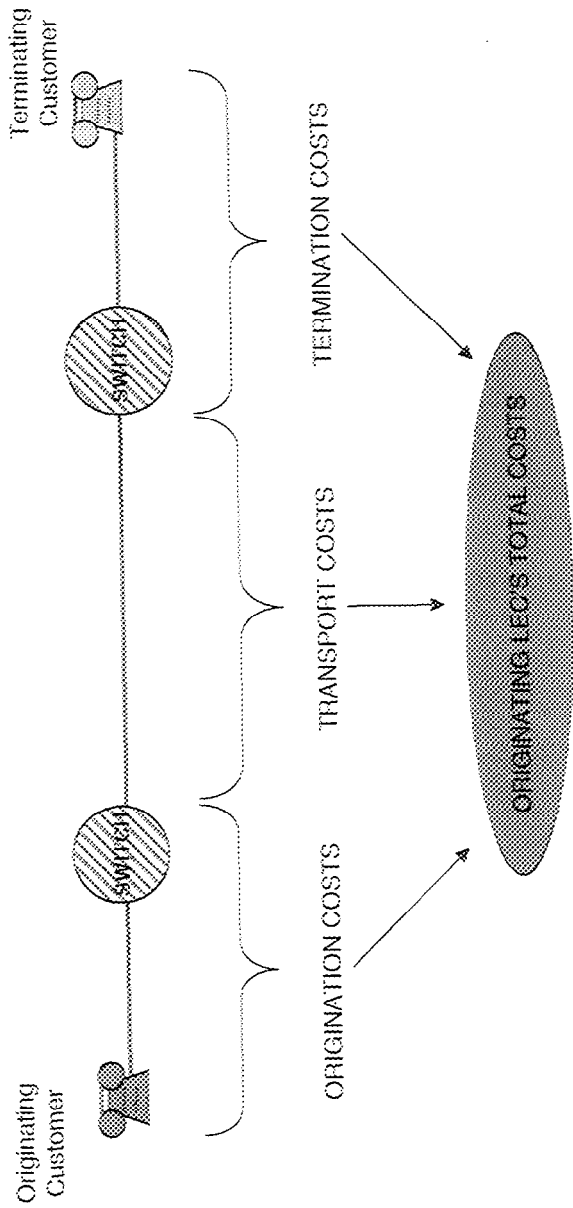
ATTACHMENT 1 - BST NETWORK ARCHITECTURE



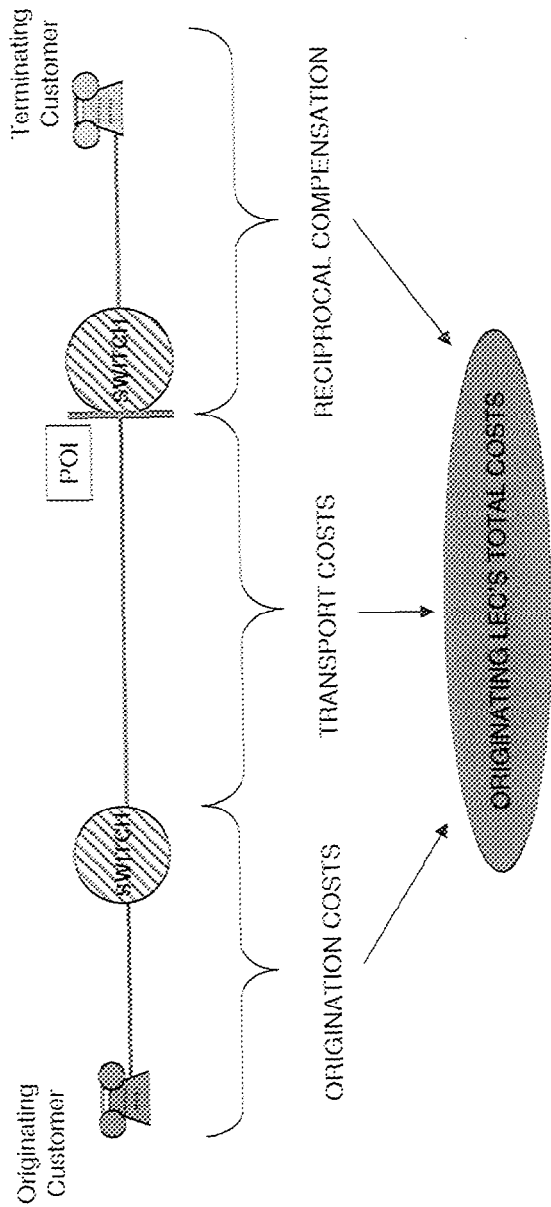
ATTACHMENT 2 - AT&T NETWORK ARCHITECTURE



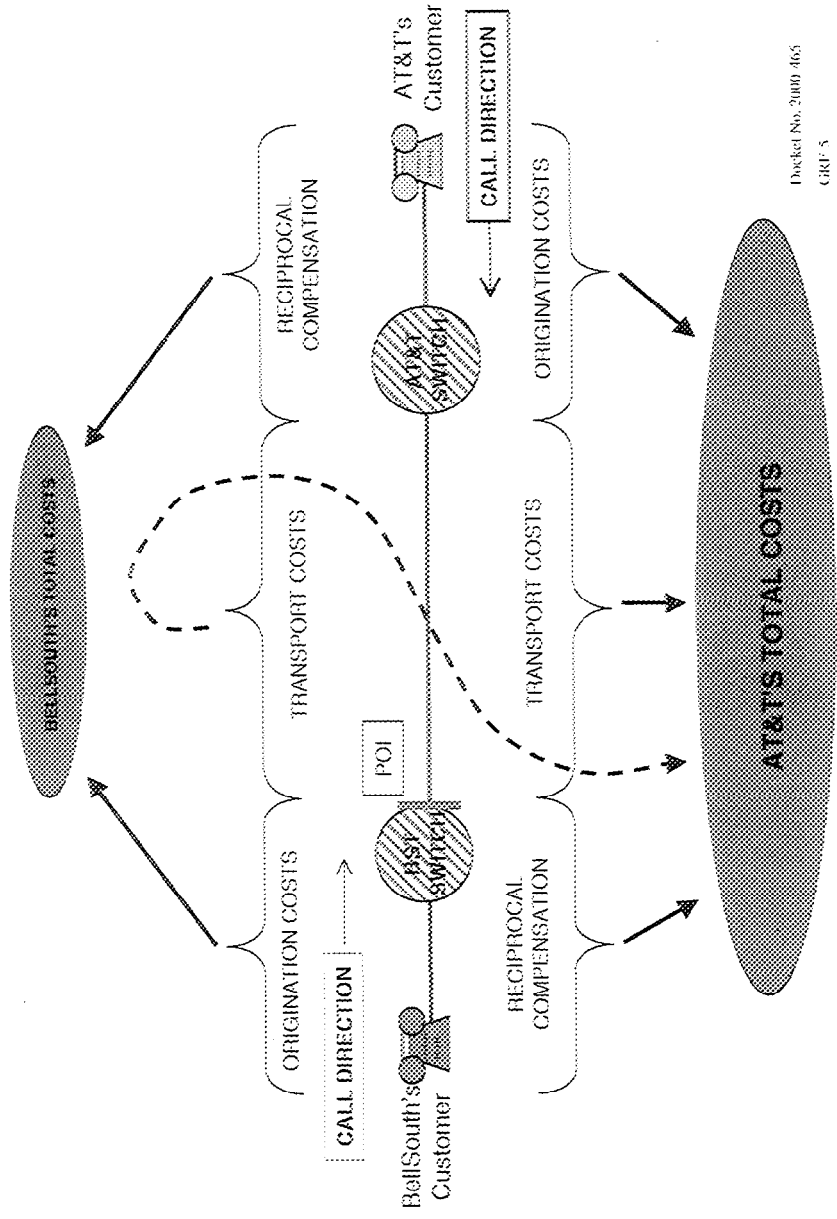
ATTACHMENT 3 - PRE-TRA COST MODEL



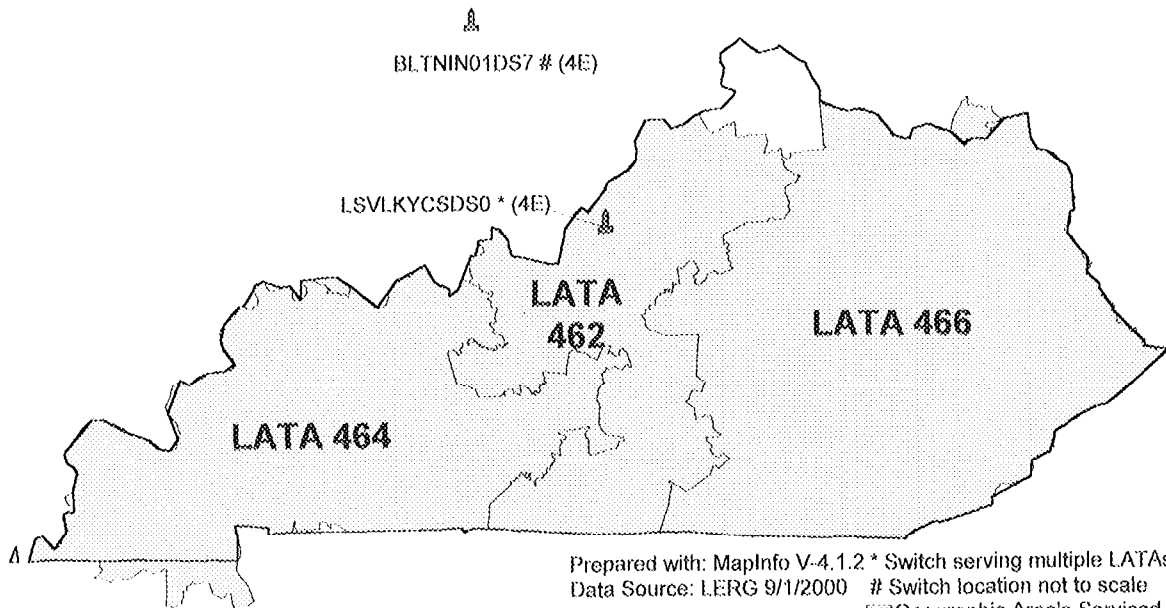
ATTACHMENT 4 - TRA COST MODEL AND AT&T PROPOSAL



ATTACHMENT 5 - BELLSOUTH PROPOSAL



AT&T Switches Serving Kentucky



Prepared with: MapInfo V-4.1.2 * Switch serving multiple LATAs

Data Source: LERG 9/1/2000 # Switch location not to scale

Geographic Area's Serviced by AT&T

Docket No. 2000-465

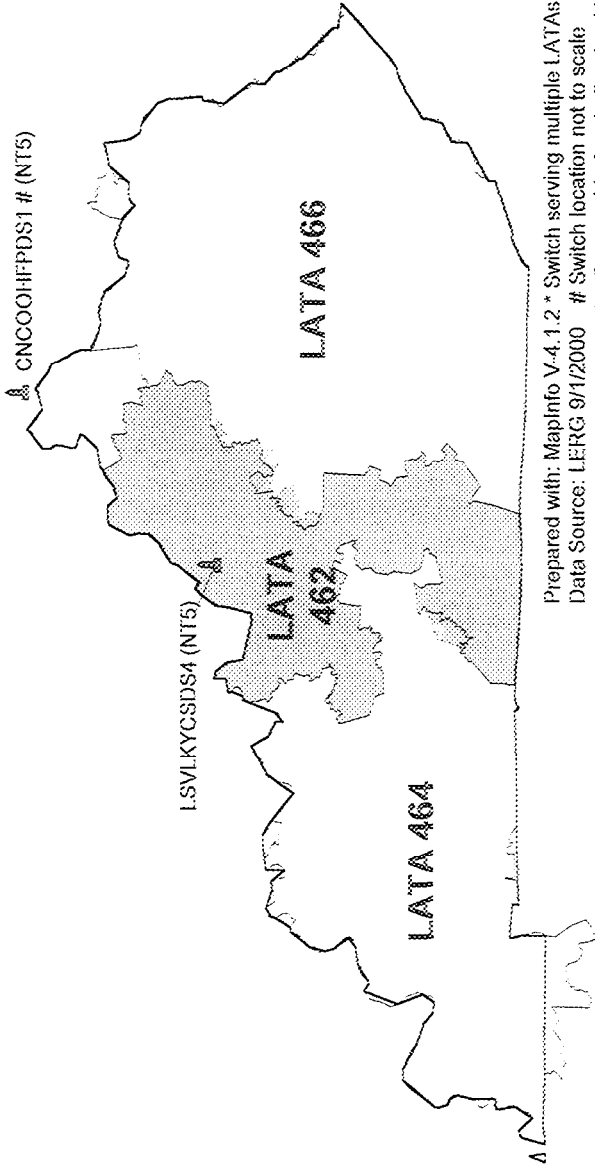
GRF-6a

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▲ IPLSNMADS1 # (DMH)

TCG Switches Serving Kentucky

▲ CNCOOHFPDS1 # (NTS)

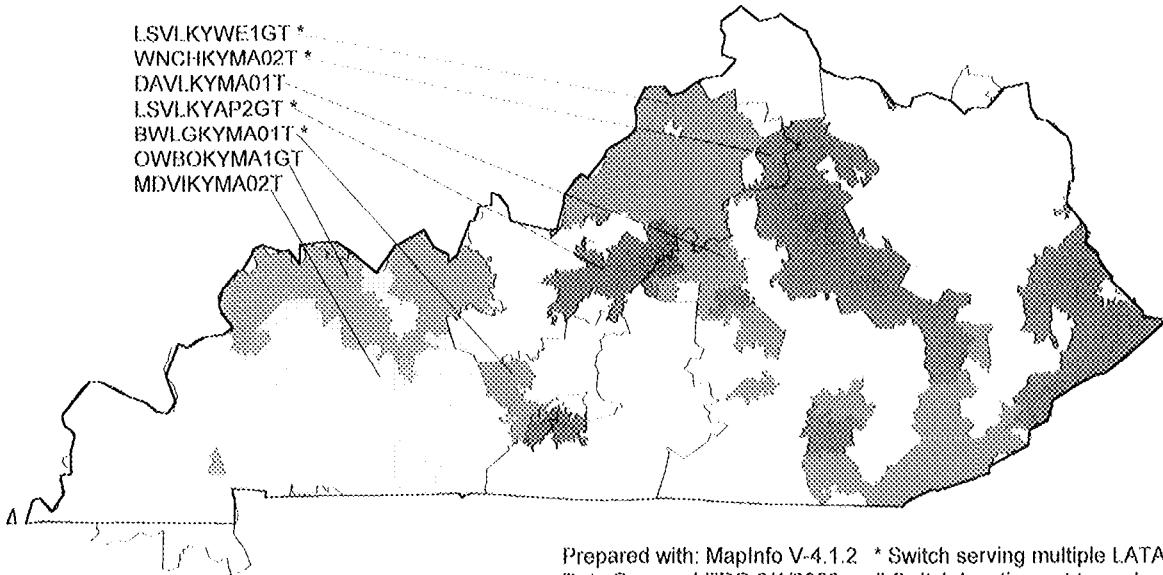


Prepared with: MapInfo V.4.1.2 * Switch serving multiple LATAs
Data Source: LERG 9/1/2000 # Switch location not to scale

■ Geographic Area's Serviced by TCG

BellSouth Tandem Serving Kentucky

LSVL.KYWE1GT *
WNCHKYMA02T *
DAVL.KYMA01T
LSVL.KYAP2GT *
BWL.GKYMA01T *
OWBOKYMA1GT
MDVIKYMA02T



Prepared with: MapInfo V-4.1.2 * Switch serving multiple LATAs
Data Source: LERG 9/1/2000 # Switch location not to scale