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BELLSOUTH TELECOMMUNICATIONS, INC.
REBUTTAL TESTIMONY OF JOHN A. RUSCILLI
BEFORE THE KENTUCKY PUBLIC SERVICE COMMISSION
DOCKET NO. 2000-465
FEBRUARY 20, 2001

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

A. My name is John A. Ruscilli. I am employed by BellSouth as Senior Director for State Regulatory for the nine-state BellSouth region. My business address is 675 West Peachtree Street, Atlanta, Georgia 30375.

Q. ARE YOU THE SAME JOHN RUSCILLI THAT FILED DIRECT TESTIMONY IN THIS PROCEEDING ON DECEMBER 20, 2000?

A. Yes. I filed direct testimony, including two exhibits.

Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

A. The purpose of my rebuttal testimony is to respond to the policy aspects of numerous unresolved issues addressed in the testimony of Mr. Gregory Follensbee filed on behalf of AT&T Communications of the South Central States, Inc. and TCG Ohio (collectively “AT&T”).

Issue 1: Should calls to Internet service providers be treated as local traffic for the

1 *purposes of reciprocal compensation? (Attachment 3)*

2

3 Q. PLEASE RESPOND TO MR. FOLLENSBEE'S DISCUSSION OF "CALLER
4 PAYS" AS IT RELATES TO ISP TRAFFIC.

5

6 A. First, BellSouth concurs in Mr. Follensbee's discussion of the "caller pays" tradition
7 for local calls. When BellSouth provides local service to an end user in Frankfort,
8 that end user pays BellSouth for local exchange service. When BellSouth's end user
9 in Frankfort calls another BellSouth end user in Frankfort, BellSouth collects no
10 additional compensation for this call because the caller has already paid BellSouth for
11 the privilege of originating and terminating local calls within the local calling area.

12

13 Taking this example a step further, when the called party is served by a CLEC such
14 as AT&T, BellSouth owes AT&T compensation for the portions of AT&T's network
15 that are used to complete the local call. In this situation, because AT&T provides
16 part of the network between the two customers, BellSouth has some cost savings.
17 When BellSouth's end user completes a local call to AT&T's end user, BellSouth has
18 already been compensated for the local call by the calling party, and BellSouth shares
19 a portion of that revenue with AT&T via reciprocal compensation.

20

21 Now, let's introduce an Internet Service Provider (ISP) into the picture. I'll start with
22 the scenario where BellSouth's end user purchases his Internet service from an ISP
23 served by BellSouth. Again, BellSouth's end user has purchased local exchange
24 service from BellSouth. The ISP also purchases service from BellSouth.¹ When

¹ As I explained in detail in my direct testimony, the ISP purchases access service at local exchange rates, as required by the FCC.

1 BellSouth's end user accesses the Internet, no additional money changes hands.
2 Next, assume that AT&T wins the ISP from BellSouth, so the ISP now purchases its
3 access service from AT&T. When BellSouth's end user accesses the Internet,
4 AT&T contends that BellSouth owes AT&T reciprocal compensation. There are
5 several reasons why BellSouth does not owe AT&T reciprocal compensation for this
6 traffic.

7
8 First, as I explained in my direct testimony, and as Mr. Follensbee admitted in the
9 arbitration proceeding in South Carolina, ISP traffic is jurisdictionally interstate.
10 Reciprocal compensation is only applicable to local traffic. Second, AT&T is already
11 being compensated by the ISP for the portion of AT&T's network that is used in
12 carrying Internet traffic. Whether the ISP traffic is generated by BellSouth's end
13 users or by AT&T's end users is irrelevant. If BellSouth were to compensate AT&T
14 for this traffic, AT&T would be paid twice – once by the ISP and again by BellSouth.

15
16 It makes no sense for AT&T to claim that BellSouth should compensate it for ISP
17 traffic that BellSouth's end users originate to ISPs served by AT&T. Again, when
18 BellSouth serves both the end user and the ISP, BellSouth is compensated by the ISP
19 for the traffic that BellSouth delivers to the ISP. It is nonsensical for AT&T to claim
20 that, because it now serves the ISP, BellSouth owes AT&T compensation for ISP
21 traffic over and above what AT&T receives from its ISP customers. AT&T is clearly
22 being compensated by its ISP customers for the use of AT&T's network in delivering
23 ISP traffic.

24
25 Q. PLEASE RESPOND TO MR. FOLLENSBEE'S COMMENT AT PAGE 10
26 THAT THE D.C. CIRCUIT LEFT IT TO THE STATE COMMISSIONS TO

1 DETERMINE HOW ISP TRAFFIC SHOULD BE CLASSIFIED.

2

3 A. I consider Mr. Follensbee’s view to be directly contrary to the action the Court
4 actually took. Indeed, the Court pointed out that its having vacated the FCC’s
5 Declaratory Ruling leaves the incumbents “free to seek relief from state-authorized
6 compensation that they believe to be wrongfully imposed.” (March 24, 2000 D. C.
7 Circuit Court Order at page 9).

8

9 ***Issue 4: What does “currently combines” mean as that phrase is used in 47 C.F.R. §***
10 ***51.315(b)? (Attachment 2)***

11 ***Issue 5: Should BellSouth be permitted to charge AT&T a “glue charge” when***
12 ***BellSouth combines network elements?***

13

14 Q. HAS MR. FOLLENSBEE PROVIDED ANY RATIONALE TO THE
15 COMMISSION AS TO WHY BELLSOUTH SHOULD BE REQUIRED TO
16 COMBINE UNEs FOR CLECs AT COST-BASED RATES?

17

18 A. No. In a futile attempt to make his point, Mr. Follensbee first cites federal rule 57
19 C.F.R. §51.315(b) that forbids ILECs such as BellSouth from separating requested
20 network elements that are currently combined. BellSouth does not dispute that it
21 cannot separate elements that are currently combined, unless asked to do so by the
22 CLEC. Next, Mr. Follensbee cites federal rule 57 C.F.R. §51.315(c) that required
23 ILECs to combine elements for CLECs, noting that this particular rule is vacated.
24 Mr. Follensbee claims that these two rules – subparts (b) and (c) – collectively
25 defined the ILECs’ complete obligation relating to network combinations. BellSouth
26 agrees with Mr. Follensbee. Again, subpart (b) is in effect, and subpart (c) is

1 vacated.

2

3 Vacated subpart (c) states:

4

5 Upon request, an incumbent LEC shall perform the functions necessary to
6 combine unbundled network elements in any manner, even if those elements
7 are not ordinarily combined in the incumbent LEC's network....

8

9 Indeed, the fact that this rule is vacated makes clear that ILECs have no obligation
10 under the Act to perform the functions necessary to combine network elements for
11 CLECs at all, and certainly not at cost-based rates.

12

13 Q. WHEN BELLSOUTH PROVIDES A CUSTOMER WITH AN
14 ADDITIONAL LINE, OR SERVES A NEW PREMISES, DOESN'T
15 BELLSOUTH HAVE TO COMBINE NETWORK ELEMENTS?

16

17 Generally, yes. Physical work is required to combine the elements required to
18 provide the service, and BellSouth incurs the cost of performing such work. Mr.
19 Follensbee makes the feeble argument that, because BellSouth would have to do this
20 work if it is serving the customer, BellSouth should do the work when a CLEC is
21 going to serve the customer. Indeed, Mr. Follensbee opines at page 16 that "the
22 most efficient solution is for BellSouth to combine these elements ... and then provide
23 the entrant with the requested combination." I certainly agree that Mr. Follensbee's
24 proposal would be the most efficient solution for the CLEC, because the CLEC
25 would get the benefit of BellSouth having done the CLEC's work, and BellSouth
26 would have incurred all the cost with no compensation from the CLEC.

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Q. IN BELLSOUTH'S NETWORK, COULD THERE EXIST A SCENARIO WHEREIN THE LOOP AND THE PORT ARE COMBINED, AND THERE IS DIAL TONE ON THE LINE, BUT THERE IS NO SERVICE BEING PROVIDED TO A PARTICULAR CUSTOMER AT THAT PARTICULAR LOCATION?

A. Yes. This arrangement is typically referred to as "QuickService." Consider a customer that has been receiving local exchange service from BellSouth, and the customer sells his house and moves. He calls BellSouth to have his service disconnected. Generally, it is BellSouth's policy to leave those facilities connected through from the customer's network interface device ("NID") to the main distributing frame ("MDF") in the central office. The connection on the MDF between the loop and the switch port is also left in place.² Thus, there will be dial tone on the line, but there is no service being provided for which a customer is paying BellSouth. If one were to plug a phone into a jack in that house, one would be able to call 911 or to call BellSouth's business office, but calls could not be placed to any other number, and calls could not be received over the line. Where such facilities are combined in BellSouth's network (that is, where QuickService has been applied to a disconnected line), BellSouth will provide the combination to a requesting CLEC at cost-based rates.

² The assumption is that the existing facilities will be re-used to provide service to a new customer at that same location. However, in the event that the port or a portion of the loop is needed to fill a service order at another location where no other facilities are available, the QuickService facility will be taken apart so that service can be provided at the alternate location. In that case, the loop and the port will no longer be combined to the original location.

1 Q. PLEASE RESPOND TO MR. FOLLENSBEE'S CONTENTION THAT
2 ACCESS TO UNE COMBINATIONS IS NECESSARY FOR WIDESPREAD
3 COMPETITION.

4
5 A. Actually, the evidence would suggest exactly the contrary. Indeed, AT&T's position
6 with regard to this issue is quite curious. As I stated in my direct testimony, there are
7 over 1.2 million lines in service in Kentucky today. AT&T can request that any of
8 those lines be provided to AT&T on a "switch-as-is" basis, which means that AT&T
9 can have the existing combination of elements at cost-based rates. By simply
10 requesting that these already combined elements be provided to AT&T as UNE
11 combinations, which BellSouth is obligated to do, AT&T could take every single
12 customer BellSouth has in Kentucky.

13
14 However, instead of doing that, AT&T apparently prefers to spend its time and this
15 Commission's time arguing that competition is hampered in Kentucky as a result of
16 BellSouth's refusal to combine elements at cost-based rates for AT&T when the
17 elements are not already combined in BellSouth's network. Stated another way, if
18 AT&T wins the customer, BellSouth agrees that it will transfer that customer's service
19 to AT&T using a "combination" of loops and ports at cost-based rates. However,
20 AT&T still argues that BellSouth is stifling competition in Kentucky because BellSouth
21 refuses to do AT&T's work for it for "new" customers, or for customers who want to
22 add another line. Quite frankly, I think that a reasonable person would have to look
23 at this issue and wonder what AT&T was really up to.

24
25 At any rate, the accuracy of Mr. Follensbee's contention that access to UNE
26 combinations is necessary for widespread competition depends on which segments of

1 the market are examined. Obviously, facilities-based CLECs have focused their
2 efforts on the more lucrative business markets and all but ignored the residential
3 market. The hallmark reform of the Act was to remove the statutory barriers and
4 create a three-pronged means for competition to
5 develop – build facilities, resale, and UNEs. CLECs have varied in their desire to use
6 each of these means, so measuring competition based solely on UNEs (including
7 UNE combinations) is misguided.

8
9 Q. PLEASE RESPOND TO MR. FOLLENSBEE’S CITE AT PAGE 17 TO THE
10 GEORGIA COMMISSION’S RULING ON THIS ISSUE IN ITS GENERIC
11 COMBINATION DOCKET.

12
13 A. While Mr. Follensbee quotes accurately from the Georgia Commission’s Order, he fails
14 to note that the Commission further stated that “if the Eighth Circuit Court
15 of Appeals determines that ILECs have no legal obligation to combine UNEs under the
16 Federal Act, the Commission will reevaluate its decision with regard
17 to the requirement that BellSouth provide combinations of typically combined elements
18 where the particular elements being ordered are not actually physically connected at the
19 time the order is placed.” (February 1, 2000 Order in Docket No. 10692-U at page
20 22).

21
22 ***Issue 6: Under what rates, terms, and conditions may AT&T purchase network***
23 ***elements or combinations to replace services currently purchased from BellSouth’s***
24 ***tariffs? (Attachment 2)***

25
26 Q. PLEASE RESPOND TO MR. FOLLENSBEE’S CONTENTION AT PAGE 22

1 THAT BELLSOUTH MAY NOT APPLY TERMINATION LIABILITY
2 CHARGES WHEN TARIFFED SERVICES ARE CONVERTED TO
3 UNBUNDLED NETWORK ELEMENT (“UNE”) COMBINATIONS.
4

5 A. Mr. Follensbee has chosen in his direct testimony to refer to termination liabilities as
6 “cancellation charges.” He alleges that BellSouth plans to charge AT&T “cancellation
7 charges” when tariffed services AT&T is purchasing from BellSouth are, at AT&T’s
8 request, converted to unbundled network elements. Mr. Follensbee claims that
9 “cancellation charges” are applicable only when a service is completely terminated
10 and is not replaced with another service. He contends that, since AT&T is converting
11 tariffed services to UNE combinations, and is not “canceling” the service, no
12 “cancellation charges” are applicable.
13

14 He is incorrect. When BellSouth has a relationship with a user of its services, and that
15 relationship has certain conditions that have to be met if the relationship changes, then
16 those conditions - in this case, termination liabilities - must be met. A customer who
17 is under contract generally pays lower rates than he would pay if he were not under
18 contract. Termination liabilities ensure that the service provider receives a fair price
19 for the service in the event the customer terminates the contract early or does not live
20 up to the volume commitment. Therefore, if a contract is terminated early, and the
21 terms of the volume and term agreement are not met, it is appropriate for BellSouth to
22 receive payment of the early termination charges.
23

24 As Mr. Follensbee explains at page 21 of his testimony, AT&T is looking to convert
25 special access services to UNEs. Indeed, the FCC recognized that termination
26 liabilities could apply in this situation, stating in its UNE Remand Order that “any

1 substitution of unbundled network elements for special access would require the
2 requesting carrier to pay any appropriate termination penalties required under volume
3 or term contracts.” (CC Docket No. 96-98, FCC 99-238 (Rel. Nov. 5, 1999),
4 page 221, footnote 985).

5

6 Q. PLEASE EXPLAIN WHAT YOU MEAN BY “VOLUME AND TERM”
7 AGREEMENT.

8

9 A. Certain of BellSouth’s tariffed offerings include rate schedules that vary dependant
10 upon the length of the contract or the quantity of lines the customer agrees to order
11 and maintain. Such pricing structures are common in the industry. For example, a
12 particular service might have a recurring monthly rate of \$20.00. If the end user
13 agrees to sign a 24-48 month contract, meaning that the end user agrees to keep the
14 service for a minimum of 24 months, the monthly recurring rate might be \$18.00.
15 Likewise, the tariff might include a 49-72 month recurring rate of \$16.00. Typically,
16 such tariffed services also include a termination liability that applies if the end user
17 terminates the contract early or does not meet the volume commitment.

18

19 The contract that AT&T seeks to abrogate began in June, 1999 and continues until
20 April, 2004 (58 months). In exchange for the lower contract rates, AT&T made a
21 specific monthly revenue commitment to BellSouth. Now, less than two years into the
22 contract, because AT&T now has the opportunity to convert certain of these tariffed
23 services to UNE combinations at even cheaper rates, AT&T wishes to be “let out” of
24 its contract with no application of termination liabilities.

25

26 Q. PLEASE ADDRESS MR. FOLLENSBEE’S CONTENTION AT PAGE 23

1 THAT THE SERVICE IS NOT BEING TERMINATED.

2

3 A. BellSouth agrees that the service is not being terminated. However, the commitment
4 AT&T made was not simply to continue the service. The commitment was for a
5 predetermined billing level, and that is what is at issue here, rather than a question of
6 whether AT&T does or does not continue to use the facilities.

7

8 If AT&T were currently purchasing tariffed services from BellSouth at month-to-
9 month rates, then BellSouth would simply effect the conversion to UNE rates.

10 However, because AT&T is currently purchasing tariffed services under contract at
11 lower rates based on a volume and term commitment, BellSouth will apply any
12 applicable termination liabilities when services are converted to UNEs.

13

14 A customer who purchases service on a month-to-month basis in lieu of purchasing
15 the same service on a contract basis presumably does so because that customer does
16 not want to make a volume and term commitment or be exposed to a termination
17 liability. AT&T's position on this issue, if adopted, would mean that even though
18 AT&T agreed to a volume and term contract and obtained a lower rate than a
19 customer purchasing on a month-to-month basis would receive, AT&T could avoid
20 the termination liability simply by converting the service to UNEs prior to the
21 expiration of the contract. Obviously, the consequence of such action would be that
22 AT&T would receive more favorable treatment than the customer who chose to
23 purchase the service on a month-to-month basis.

24

25 Q. PLEASE RESPOND TO MR. FOLLENSBEE'S ALLEGATION AT PAGE 22
26 THAT TERMINATION LIABILITIES DISCRIMINATE AGAINST CLECs

1 WHEN A CUSTOMER WANTS TO CHANGE SERVICE.

2

3 A. Mr. Follensbee's argument makes no sense when considered in the context of AT&T
4 using wholesale tariffed services as opposed to UNE combinations. In recent
5 arbitration proceedings in other BellSouth states, AT&T has been very clear that this
6 issue is not meant to address retail end users, but is only meant to address AT&T as
7 the wholesale purchaser.

8

9 AT&T is serving the customer with tariffed special access, and now AT&T wants
10 BellSouth to make a records change and begin billing AT&T a lower rate (the UNE
11 combination rate). Again, BellSouth does not dispute AT&T's right to convert
12 qualifying special access circuits to UNE combinations. However, Mr. Follensbee's
13 claim that application of termination liabilities results in discrimination against CLECs
14 when a customer wants to change service is nonsensical. AT&T is already serving
15 the customer. It is not the customer who is changing service. Indeed, as AT&T
16 would no doubt insist, changing the billing from a tariffed service to a UNE
17 combination would have no effect whatsoever on the customer. In fact, Mr.
18 Follensbee points out at page 23 of his testimony that after the special access circuits
19 are converted to UNEs, "the customer will still receive the same service from AT&T
20 and the service provided by BellSouth to AT&T will remain the same."

21

22 Q. HOW DO YOU RESPOND TO MR. FOLLENSBEE'S ALLEGATION AT
23 PAGE 22 THAT AT&T HAD NO CHOICE BUT TO PURCHASE THESE
24 TARIFFED SERVICES FROM BELL SOUTH?

25

26 A. I disagree completely with Mr. Follensbee's portrayal of BellSouth as "unwilling to

1 provide combinations of network elements in lieu of special access.” AT&T, had it
2 chosen to do so, could have combined the UNEs necessary to provide the service
3 that it wanted. However, in keeping with its position on several of the issues
4 presented in this case, AT&T did not want to incur the expense of doing so. AT&T
5 wanted, and this was the real issue, for BellSouth to combine the UNEs for AT&T,
6 but BellSouth is not required to do this for AT&T at UNE rates. Because AT&T
7 chose not to do the combining itself, and because BellSouth is not required to do the
8 combining, AT&T chose to purchase the tariffed services from BellSouth, hoping to
9 be able to convert those to UNEs at a later date. AT&T has done what it has done
10 based on its own economic self-interest. Again, BellSouth is under no obligation to
11 combine elements for CLECs at UNE rates.

12
13 AT&T could have purchased these services on a month-to-month basis. Of course,
14 doing so would have cost more, so AT&T chose instead to enter into a contract to
15 receive lower rates based on a volume and term commitment and an agreement to
16 pay termination liabilities if that commitment was not honored. Now, AT&T wants to
17 keep the benefit of the lower rates and break the commitment without bearing the
18 consequences it agreed to bear.

19
20 ***Issue 7: How should AT&T and BellSouth interconnect their networks in order to***
21 ***originate and complete calls to end-users? (Attachment 3)***

22
23 Q. HAS MR. FOLLENSBEE ACCURATELY PORTRAYED THE
24 DISAGREEMENT BETWEEN THE PARTIES ON THIS ISSUE?

25
26

1 A. No, he has not. First, let me be clear that BellSouth does not dispute that, for
2 AT&T's originating traffic, AT&T may choose to establish only one IP per LATA.
3 Based on Mr. Follensbee's testimony, AT&T agrees that it has the responsibility to
4 pay BellSouth reciprocal compensation for the portions of BellSouth's network that
5 are used to terminate AT&T's traffic when AT&T hands off traffic to BellSouth at
6 that single point. Mr. Follensbee is, however, completely incorrect when he alleges
7 that BellSouth's proposal requires AT&T to transport AT&T's originating traffic all
8 the way to each BellSouth end office in each BellSouth local calling area. As I
9 explained in my direct testimony, BellSouth's proposal does not require that AT&T
10 bring its originating traffic to each BellSouth end office. AT&T can hand off its traffic
11 at a single point in the local calling area and BellSouth will transport and terminate that
12 traffic to any other point in the local calling area.

13
14 The disagreement, however, involves originating traffic, not terminating traffic.
15 Regarding BellSouth's originating traffic, Mr. Follensbee is correct that BellSouth's
16 proposal is for AT&T to be responsible for transporting BellSouth's originating traffic
17 from some point in the BellSouth local calling area to AT&T's switch. As I explained
18 in my direct testimony, if a BellSouth end user in the Shelbyville local calling area
19 originates a call to an AT&T end user in the Shelbyville local calling area, AT&T
20 contends that BellSouth should bear the cost of transporting the call from the
21 BellSouth end user in Shelbyville to AT&T's point of interconnection in Louisville.
22 BellSouth's position is that the call is being transported out of the Shelbyville local
23 calling area solely as a
24 result of AT&T's network architecture. Again, this is where the parties disagree.

25
26 Q. WHAT ARE THE CONSEQUENCES OF AT&T'S POSITION ON THIS

1 ISSUE, AS REPRESENTED BY MR. FOLLENSBEE?

2

3 A. First, AT&T's position means that it gets to designate where it will deliver calls
4 originated by AT&T's end users to BellSouth for BellSouth to then deliver to the
5 BellSouth end user being called. BellSouth agrees with AT&T that it can do this.
6 However, AT&T's position also means that it gets to designate how many places on
7 BellSouth's network AT&T will accept BellSouth-originated traffic destined for
8 AT&T's end users. That is, there is absolutely no symmetry in terms of each party
9 deciding where it is willing to hand off its originating traffic to the other party. AT&T,
10 under its approach, may decide to have only one or two interconnection points in a
11 LATA where it will hand its originating traffic off to BellSouth.

12

13 If AT&T prevails, then BellSouth will be limited to no more than one or two
14 interconnection points as well, even if BellSouth has fifteen or twenty local calling
15 areas in the LATA. This means that, in a LATA with numerous local calling areas,
16 BellSouth would be required to incur the cost of hauling local calls from one local
17 calling area to a distant interconnection point, where the call would then be handed off
18 to AT&T to be switched and brought back by AT&T to the same BellSouth local
19 calling area in which the call originated. Adopting AT&T's position means that even
20 though AT&T itself has created the situation where a call has to be hauled fifty or a
21 hundred miles to be switched, it will have managed to require BellSouth to pay for a
22 portion of these costs. Simply put, AT&T wants BellSouth to subsidize AT&T's
23 selected network design.

24

25 As I explained in my direct testimony, BellSouth's position on this issue does not
26 mean that AT&T has to actually build a network to each of BellSouth's local calling

1 areas. AT&T can build out its network that way if it chooses, but it is not required to
2 do so. AT&T can lease facilities from BellSouth or from any other provider to bridge
3 the gap between its network (that is, where it designates its Point of Interconnection)
4 and each BellSouth local calling area. Again, BellSouth's position is that BellSouth
5 will be financially responsible for transporting its originating traffic to a single point in
6 each local calling area. However, BellSouth is not obligated to be financially
7 responsible for hauling AT&T's local traffic to a distant point dictated by AT&T.

8

9 Q. DOES MR. FOLLENSBEE'S OFFER THAT AT&T MIGHT ESTABLISH TWO
10 INTERCONNECTION POINTS ("IPs") IN EACH LATA RESOLVE THIS
11 ISSUE?

12

13 A. Regrettably, it does not. First, Mr. Follensbee qualifies AT&T's offer when he says
14 that if traffic volumes are insufficient, then AT&T will only establish one IP in each
15 LATA. Second, let's assume that AT&T establishes two IPs in each LATA (say, in
16 Louisville and in Shelbyville in the Louisville LATA), but AT&T also has end users in
17 Frankfort. BellSouth's position remains that, under AT&T's proposal, BellSouth
18 would incur additional costs to transport calls from BellSouth's end users in Frankfort
19 to AT&T's end users in Frankfort solely due to AT&T's choice of network
20 architecture which requires that the call be transported out of the Frankfort local
21 calling area to AT&T's IP either in Louisville or Shelbyville.

22

23 Q. MR. FOLLENSBEE SUGGESTS, AT PAGES 26-27 OF HIS TESTIMONY,
24 AND WHILE DISCUSSING HIS EXHIBITS GRF-3 THROUGH GRF-5, THAT
25 BELLSOUTH IS ATTEMPTING TO IMPOSE ADDITIONAL COSTS ON
26 AT&T, RATHER THAN THE OTHER WAY AROUND AS YOU MAINTAIN.

1 SINCE YOU BOTH CANNOT BE RIGHT, CAN YOU EXPLAIN WHY MR.
2 FOLLENSBEE IS WRONG?

3

4 A. Mr. Follensbee has created an illusion that is worthy of David Copperfield. First, let
5 me say that I agree with what he has portrayed in his Exhibit GRF-3. Historically,
6 when a BellSouth local subscriber in a BellSouth local calling area places a call to
7 another BellSouth local subscriber in that same local calling area, BellSouth incurs the
8 cost of switching at the originating caller's office, transport to the called party's end
9 office and switching at the called party's end office. We do not have a dispute about
10 that.

11

12 Similarly, I agree with Mr. Follensbee's Exhibit GRF-4, provided that the call
13 originates and terminates in the same BellSouth local calling area. A BellSouth
14 customer originates a call, and BellSouth switches the call and delivers it to AT&T's
15 Point of Interconnection located in that same local calling area. BellSouth will pay the
16 expenses of getting the call to that Point of Interconnection in the BellSouth local
17 calling area, because that is what BellSouth's local subscribers are paying BellSouth
18 to do. When the call reaches the Point of Interconnection, and AT&T switches the
19 call to its end user, BellSouth will pay reciprocal compensation in the form of end
20 office switching to AT&T. BellSouth has absolutely no problem with that scenario.
21 But remember, because it is critically important, that all of this is taking place in the
22 same BellSouth local calling area.

23

24 Turning to Mr. Follensbee's Exhibit GRF-5, I must say that AT&T has the story
25 wrong. Or, more precisely, Mr. Follensbee has obfuscated the story. If everything
26 that was pictured on Exhibit GRF-5 all took place within the BellSouth Louisville local

1 calling area, Mr. Follensbee would be absolutely wrong. The BellSouth customer
2 would originate a call, and BellSouth, once again, would deliver it to the designated
3 Point of Interconnection. AT&T would pick up the call at the Point of
4 Interconnection and carry it back to its switch. AT&T would then switch the call, and
5 terminate it to its local customer. If all this happened in the Louisville local calling
6 area, BellSouth would owe AT&T for call transport from the Point of Interconnection
7 to AT&T's switch, and then would owe AT&T for local switching for terminating the
8 call. On Exhibit GRF-5, the facility between the BellSouth switch and the AT&T
9 switch appears to be a dedicated facility, so the transport paid in this situation by
10 BellSouth would be some proportional share of the cost of the dedicated facility. The
11 switching rate would be the normal end office rate established for reciprocal
12 compensation.

13

14 If the call were flowing the other way (i.e., from AT&T's end user to BellSouth's end
15 user), AT&T would incur the cost of switching its customer's call as well as
16 transporting the call to the Point of Interconnection, an amount that would be exactly
17 equal to what BellSouth pays AT&T when BellSouth's customer originates a call to
18 one of AT&T's customers.

19

20 Q. SO WHY IS THIS EVEN AN ISSUE?

21

22 A. It is an issue because Mr. Follensbee failed to include something on his exhibit that is
23 critical to this issue. If AT&T's and BellSouth's networks were set up as pictured in
24 Mr. Follensbee's exhibit, everything would be fine. What he has forgotten to point
25 out is that even if AT&T has placed a local switch in a LATA, that switch may be
26 located fifty or a hundred miles from the BellSouth local calling area that AT&T

1 purports to serve. That is, in his Exhibit GRF-5, the BellSouth customer and the
2 BellSouth switch may be located in Shelbyville, and the AT&T customer may be
3 located in Shelbyville, but AT&T's switch might be located in Louisville. In such a
4 case, AT&T has made the decision to locate the switch in a distant location because
5 that was what was economical for AT&T. That is fine. BellSouth does not care that
6 AT&T has located its switch that far away from the local calling area it is serving.

7

8 However, it is absurd for AT&T to cry foul, as Mr. Follensbee does in his discussion
9 of his Exhibit GRF-5, because BellSouth objects to incurring the cost of hauling a call
10 that originates and terminates in Shelbyville, out of the Shelbyville local calling area
11 and over to Louisville. BellSouth will haul the call to a point in the Shelbyville local
12 calling area, and BellSouth will pay for that. It is not equitable, however, to require
13 BellSouth to incur the cost of hauling the call to Louisville because AT&T has chosen
14 not to put a switch in Shelbyville, and that is the situation that is not accurately
15 portrayed by Mr. Follensbee's Exhibit GRF-5.

16

17 As I discussed in my direct testimony, the local exchange rates that BellSouth's local
18 subscribers pay are not intended to cover the cost of hauling local calls beyond
19 BellSouth's local calling area. Nevertheless, that is exactly what AT&T wants to
20 force BellSouth (and other local service providers) to do. Evidently, AT&T refuses
21 to pick up the traffic at the Point of Interconnection in each of BellSouth's local calling
22 areas in, for example, the Louisville LATA. At the same time, AT&T has refused to
23 compensate BellSouth for the additional cost of transporting these calls from the
24 various BellSouth local calling areas to a distant location selected by AT&T solely for
25 AT&T's own convenience. It is the additional cost of transporting local traffic from
26 BellSouth's designated Point of Interconnection to a distant location as desired by

1 AT&T about which the parties disagree.

2

3 Q. HOW IS THIS ISSUE IMPACTED BY THE FACT THAT A SMALL
4 PERCENTAGE OF BELLSOUTH'S CUSTOMERS SUBSCRIBE TO
5 EXTENDED CALLING SERVICE ("ECS") OR LATA-WIDE CALLING
6 PLANS?

7

8 A. The fact that some of BellSouth's customers subscribe to ECS or LATA-wide calling
9 plans has no impact on this issue. Customers who subscribe to ECS or LATA-wide
10 calling plans pay an additional fee for the ability to call a larger area without incurring
11 toll charges. For example, consider a BellSouth customer in Shelbyville who
12 subscribes to a LATA-wide calling plan. The customer pays a basic local exchange
13 rate that covers calls within the basic local calling area. Either an additional flat fee or
14 a per call or per minute fee is charged for calls this customer originates to locations
15 outside the customer's basic local calling area.

16

17 Again, BellSouth's position is that, regardless of the type of calling plan to which the
18 end user subscribes, BellSouth should not have to bear the cost of hauling a local call
19 that originates and terminates in Shelbyville to AT&T's distant point of
20 interconnection. However, when BellSouth's end user in Shelbyville originates a call
21 to AT&T's end user in Louisville, BellSouth agrees that it should haul the call to
22 AT&T's point of interconnection in Louisville at no charge to AT&T because
23 BellSouth's end user compensates BellSouth for carrying that call. If BellSouth's end
24 user has basic local exchange service, BellSouth will receive intraLATA toll from its
25 end user for hauling the call since Louisville is not in the Shelbyville local calling area.
26 If BellSouth's end user has LATA-wide calling, the end user pays BellSouth an

1 additional fee (either flat rate, per call or per minute) to haul the call from Shelbyville
2 to Louisville.

3

4

5 Q. HAVEN'T THE PARTIES AGREED THAT CALLS WITHIN THE LATA WILL
6 BE CONSIDERED LOCAL FOR PURPOSES OF RECIPROCAL
7 COMPENSATION?

8

9 A. Yes. This means that the parties have agreed to pay reciprocal compensation, rather
10 than access charges, on calls that originate and terminate within the LATA. However,
11 this agreement has no impact on the issue being discussed here. Reciprocal
12 compensation and interconnection are two very different things. For a call that
13 originates with a BellSouth customer, interconnection occurs between BellSouth's
14 local switch and the CLEC's point of interconnection. Reciprocal compensation
15 begins when the call is handed off to the CLEC's network.

16

17 Q. PLEASE COMMENT ON AT&T'S PROPOSED "NETWORK
18 INTERCONNECTION SOLUTION" AS PRESENTED BY MR.
19 FOLLENSBEE.

20

21 A. Mr. Follensbee's proposed "solution" is simply an elaborate ruse that AT&T attempts
22 to use to impose the additional costs of its network design onto BellSouth. Adopting
23 Mr. Follensbee's solution would create the inequities that I discussed at length in my
24 direct testimony. There is nothing equivalent, equitable, fair or reasonable about
25 AT&T's solution, and it should be rejected.

26

1 Q. CAN YOU ILLUSTRATE YOUR POINT BY ADDRESSING EACH OF
2 THE INDIVIDUAL COMPONENTS OF AT&T'S "SOLUTION"?

3
4 A. Yes. AT&T proposes that each parties' interconnection points (i.e., where it receives
5 traffic for termination) should be situated at the "top" of its network. Apparently, in
6 Mr. Follensbee's view, when AT&T interconnects with BellSouth's local network in
7 Louisville, AT&T is interconnected to every BellSouth local network in the Louisville
8 LATA. That is not true because BellSouth has numerous local networks within the
9 Louisville LATA. For example, when a BellSouth end user in Shelbyville calls
10 another BellSouth end user in Shelbyville, the call traverses BellSouth's local network
11 in Shelbyville and does not extend beyond the physical boundaries of the Shelbyville
12 local calling area.

13
14 In other words, the call path would start at the first end user's house and continue to
15 the serving central office. Next, a couple of things could occur. If that central office
16 has direct trunking to the second end user's serving central office, then the call would
17 travel over those direct trunks to the second central office and then travel to the
18 second end user's house. Conversely, if traffic levels have not justified direct trunking
19 between these two central offices, the call would travel from the first central office to
20 BellSouth's local tandem and would then be transported to the second central office
21 for completion to the second end user's house. Again, my point is that this local call
22 did not travel outside of the Shelbyville local calling areas. However, under AT&T's
23 proposal, if the second end user is an AT&T customer, this same call would have to
24 be transported to AT&T's point of interconnection in Louisville, and AT&T avows
25 that BellSouth should incur the cost of transporting the call outside the Shelbyville

1 local calling area to AT&T's point of interconnection in Louisville. BellSouth
2 disagrees.

3

4 AT&T proposes, in essence, that it will decide how many Points of Interconnection
5 are convenient and appropriate for AT&T, and then BellSouth would be stuck with
6 that same number. In effect, AT&T proposes that the party with the fewest number
7 of interconnection points, which would usually, or at least for the foreseeable future,
8 be AT&T, would require the other party to aggregate all of its traffic to that same
9 number of points. Further, AT&T proposes that each party be responsible for
10 delivering its interconnection traffic (i.e., traffic originating on or transiting through its
11 network) to the other party's interconnection points. In other words, each party has
12 to bear the cost of delivering traffic to the location or locations specified by the other
13 party. Simply put, these parts of AT&T's solution operate together to force
14 BellSouth to provide free facilities to AT&T.

15

16 To illustrate the effect of each party having an equal number of interconnection points,
17 let's look at the Louisville LATA. AT&T may only want to interconnect with
18 BellSouth at one point in the LATA. Therefore, under AT&T's proposed solution,
19 BellSouth would be required to aggregate all of the local traffic from every one of its
20 local networks in the Louisville LATA at a single location for delivery to AT&T.
21 Because BellSouth's existing local networks are not aggregated at a single point in the
22 LATA, BellSouth would have to create this new network configuration just to
23 accommodate AT&T.

24

25 AT&T's proposal that each party has to bear the cost of delivering its originating
26 traffic to the location or locations specified by the other party would require BellSouth

1 to incur the cost of all of the new facilities needed to implement the portion of
2 AT&T's solution that requires each party to have the same number of interconnection
3 points. AT&T completely ignores the fact that it must connect to BellSouth's existing
4 local networks. Instead, AT&T is attempting to force BellSouth to extend its existing
5 local networks to accommodate AT&T, at no charge to AT&T.

6
7 Indeed, once BellSouth is granted interLATA relief, AT&T could elect to provide
8 local service to customers in Kentucky from AT&T's switch in California, and AT&T
9 would expect BellSouth to pay for part of the facility necessary to get from Kentucky
10 to California. Now, I am sure that AT&T would protest that I am overstating the
11 matter; however, that is the ultimate result of AT&T's proposed solution to this issue.

12

13 Q. IS AT&T'S PROPOSED SOLUTION CONSISTENT WITH THE FCC'S
14 LOCAL COMPETITION ORDER?

15

16 A. No. Under AT&T's proposed solution, where the Point of Interconnection and the
17 interconnection point are at the same place, the terminating party establishes the Point
18 of Interconnection. Of course, the FCC's Order established that the originating party
19 is permitted to establish the Point of Interconnection. In Section IV of its Order, the
20 FCC established the concept that, due to reciprocal compensation being paid by the
21 originating company, the originating company may seek to determine its Point of
22 Interconnection in order to minimize its reciprocal compensation obligation to the
23 terminating company. At ¶ 209 of its Local Competition Order, the FCC states:

24

25

26

We conclude that we should identify a minimum list of technically feasible
points of interconnection that are critical to facilitating entry by competing
carriers. Section 251(c) gives competing carriers the right to deliver traffic

1 terminating on an incumbent LEC's network at any technically feasible point
2 on that network rather than obligating such carriers to transport traffic to less
3 convenient or efficient interconnection points. Section 251(c)(2) lowers
4 barriers to competitive entry for carriers that have not deployed ubiquitous
5 networks by permitting them to select the points in an incumbent LEC's
6 network at which they wish to deliver traffic. Moreover, because competing
7 carriers must usually compensate incumbent LECs for the additional costs
8 incurred by providing interconnection, competitors have an incentive to make
9 economically efficient decisions about where to interconnect.

10

11 AT&T is requesting this Commission to adopt a plan which conflicts with this ruling
12 by the FCC. As I explained in my direct testimony, BellSouth simply requests that
13 AT&T be required to bear the cost of facilities that BellSouth may be required to
14 install, on AT&T's behalf, in order to connect from a BellSouth local calling area to
15 AT&T's Point of Interconnection located outside that local calling area.

16

17 Q. THROUGHOUT HIS TESTIMONY, MR. FOLLENSBEE REFERS TO
18 NUMEROUS COURT CASES THAT HE CONTENDS SUPPORT AT&T'S
19 POSITION. CAN YOU COMMENT?

20

21 A. Since neither Mr. Follensbee nor myself are attorneys, it is probably inappropriate for
22 us to do much more than comment as laypersons on these decisions. Indeed, any
23 extensive discussion of legal cases is best left to the briefs. I understand, however,
24 that there are cases that are contrary to AT&T's position such as *US West v. AT&T*
25 *Communications*, 31 F. Supp.2d 839, 852 (D. Or. 1998), *reversed in part*,
26 *vacated in part sub nom. US West v. AT&T*, 224 F.3d 1049 (9th Cir. 2000) and

1 *US West v. Jennings*, 46 F. Supp. 2d 1004 (D. Az. 1999). I would note that the
2 Oregon case was the one in which the FCC submitted an *amicus curiae* brief that
3 AT&T holds out as supporting its position from time to time. Obviously the Oregon
4 court must not agree with AT&T's interpretation, as it evidently did not adopt
5 AT&T's position.

6
7 Mr. Follensbee cited the TSR Wireless case (*In re TSR Wireless, LLC, et. al., v.*
8 *U.S. West*, FCC 00-194) as supporting his position. However, in that decision, the
9 FCC said that local exchange companies were only required to deliver calls to
10 wireless carriers without charge when the call was delivered to the wireless carrier
11 within the Major Trading Area ("MTA"), which is the wireless carrier's equivalent of
12 a local service area. Again, I am not an attorney, but simple logic tells me that if a
13 local exchange carrier does not have to deliver a call to a wireless carrier free of
14 charge outside the MTA (the wireless carrier's local service area), then it follows that
15 BellSouth would not be required to deliver its local wireline traffic free of charge
16 outside the local service area in which the call originates.

17
18 Q. PLEASE ADDRESS MR. FOLLENSBEE'S RELIANCE ON THE FCC'S
19 RECENT OKLAHOMA 271 ORDER IN REGARD TO THIS ISSUE.

20
21 A. Mr. Follensbee is simply wrong. As much as he might wish that the FCC had
22 adopted AT&T's position in the SBC Oklahoma/Kansas 271 decision, the FCC did
23 not. Importantly, as Mr. Follensbee will agree, the issue was presented to the FCC
24 by AT&T and SBC. Indeed, in the Florida arbitration between BellSouth and AT&T
25 that was recently completed, AT&T actually produced a brief that laid out the issue
26 just as it is presented here by AT&T.

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Obviously, the FCC could have chosen to reach a conclusion that would have put this matter to rest. Indeed, all the FCC had to say was that “AT&T is entitled to have one point of interconnection in each LATA and SBC is obligated to deliver all local calls, where ever they originate in that LATA, to AT&T’s single point of interconnection at no additional cost to AT&T.” However, that is not what the FCC did. Instead, the FCC skirted the issue one more time, inviting AT&T to file a complaint with the FCC if it didn’t like what SBC was doing. Then, in a rather amazing change of direction, the FCC cautioned SBC about taking too liberal a view of the FCC’s earlier decision, citing to its reciprocal compensation rules and its decision in TSR, which I addressed earlier. The problem with all of this is that the TSR decision only dealt with the issue of calls that originated and terminated in the same local service area, and addressed the incumbent carrier’s obligation to deliver traffic to the competing carrier within that local service area. That is, all TSR stands for is that ILECs have an obligation to deliver, at no charge, calls that the ILEC’s subscribers originate to a competing local carrier within the local service area where the call originates. That is simply not the issue here between BellSouth and AT&T. BellSouth is willing to deliver all local calls that originate and terminate in the same local service area to AT&T at a point in that local service area at no charge to AT&T. However, AT&T is not satisfied with that. Instead, AT&T wants BellSouth to commit to haul “local” calls halfway across Kentucky at no cost to AT&T. If that is what the FCC intended, it should say so plainly before this Commission, or any other state commission, orders such a patently unfair result.

Q. HOW DOES BELLSOUTH PROPOSE TO RESOLVE THIS ISSUE?

1 A. For purposes of determining financial responsibility, BellSouth should be allowed to
2 designate one Point of Interconnection in each of its local calling areas where AT&T
3 must become financially responsible for picking up BellSouth's originated local traffic
4 destined for AT&T's local customers. BellSouth, not AT&T, is entitled to designate
5 the pickup point for such traffic, and that point can be on BellSouth's network.
6 BellSouth is willing to accommodate AT&T's proposed network design that does not
7 have a Point of Interconnection in each BellSouth local calling area. However, AT&T
8 would have to compensate BellSouth for transporting BellSouth's originating traffic to
9 an AT&T designated Point of Interconnection outside the basic local calling area (but
10 inside the LATA) in which the local call originates and terminates. I believe this to be
11 an equitable arrangement for both parties. This solution would also alleviate AT&T's
12 concern that its collocation space is being used for both interconnection as well as
13 accessing unbundled loops (Follensbee, pages 50-51). BellSouth's proposal would
14 alleviate this concern because BellSouth would deliver its originated local traffic to a
15 point in the LATA as designated by AT&T which is outside the BellSouth local calling
16 area and thus not utilize additional collocation space.

17
18 ***Issue 9: Should AT&T be permitted to charge tandem rate elements when its switch***
19 ***serves a geographic area comparable to that served by BellSouth's tandem switch?***
20 ***(Attachment 3)***

21
22 Q. PLEASE ADDRESS MR. FOLLENSBEE'S CONTENTION THAT THE ONLY
23 RELEVANT CRITERIA FOR DETERMINING ELIGIBILITY FOR TANDEM
24 SWITCHING CHARGES IS THE GEOGRAPHIC AREA SERVED.

25
26 A. Mr. Follensbee is incorrect. As I explained in my direct testimony, the FCC has a

1 two-part test to determine if a carrier is eligible for tandem switching: 1) a CLEC's
2 switch must serve a geographic area comparable to the geographic area served by the
3 ILEC's tandem switch, and 2) a CLEC's switch must perform tandem switching
4 functions for local traffic. Indeed, various court decisions support BellSouth's
5 contention that the FCC has established a two-part test. In a case involving MCI
6 (MCI Telecommunication Corp. v. Illinois Bell Telephone, 1999 U.S. Dist. LEXIS
7 11418 (N.D. Ill. June 22, 1999)), the U.S. District Court specifically determined that
8 the test required by the FCC's rule is a functionality/geography test. In its Order, the
9 Court stated:

11 In deciding whether MCI was entitled to the tandem interconnection rate, the
12 ICC applied a test promulgated by the FCC to determine whether MCI's
13 single switch in Bensonville, Illinois, performed functions similar to, and served
14 a geographical area comparable with, an Ameritech tandem switch.⁹
15 (emphasis added).

17 ⁹MCI contends the Supreme Court's decision in IUB affects resolution of the
18 tandem interconnection rate dispute. It does not. IUB upheld the FCC's
19 pricing regulations, including the 'functionality/geography' test. 119 S. Ct. at
20 733. MCI admits that the ICC used this test. (Pl. Br. At 24.) Nevertheless, in
21 its supplemental brief, MCI recharacterizes its attack on the ICC decision,
22 contending the ICC applied the wrong test. (Pl. Supp. Br. At 7-8.) But
23 there is no real dispute that the ICC applied the functionality/geography test;
24 the dispute centers around whether the ICC reached the proper conclusion
25 under that test. (emphasis added).

1 The Ninth Circuit Court of Appeals viewed the rule in the same way, finding that:

2

3 [t]he Commission properly considered whether MFS’s switch performs
4 similar functions and serves a geographic area comparable to US West’s
5 tandem switch.” (U.S. West Communications v. MFS Intelenet, Inc, et. al,
6 193 F. 3d 1112, 1124).

7

8 Furthermore, in evaluating whether a CLEC should receive the same reciprocal
9 compensation rate as would be the case if traffic were transported and terminated via
10 the incumbent’s tandem switch, the United States District Court in Minnesota ruled
11 that, “it is appropriate to look at both the function and geographic scope of the switch
12 at issue” (*U.S. West Communications, Inc. v. Minnesota Public Utilities*
13 *Commission*, 55 F. Supp. 2d 968, 977 (D. Minn. 1999), emphasis added).

14

15 Q. PLEASE ADDRESS MR. FOLLENSBEE’S CONTENTION THAT AT&T’S
16 SWITCHES PERFORM TANDEM FUNCTIONS.

17

18 A. While contending that FCC rules ignore tandem functionality as it relates to this
19 issue, Mr. Follensbee claims that AT&T’s (including TCG’s) switches, do, in fact,
20 perform “certain tandem functions.” On page 54 of his testimony, Mr. Follensbee
21 states that each of AT&T’s switches “acts as an access tandem routing the
22 preponderance of interLATA traffic directly to the applicable interexchange carrier.”
23 BellSouth does not take issue with that statement. However, it is wholly irrelevant to
24 the issue at hand. The fact that AT&T’s switches perform as tandems for interLATA
25 service is simply not relevant to this issue – reciprocal compensation at the tandem
26 switching rate is due only when tandem switching functions are performed for local

1 traffic. Therefore, to qualify for reciprocal compensation at the tandem rate, the
2 switch must be performing the tandem switching functions to transport local calls.

3

4 Continuing on page 54, Mr. Follensbee addresses the traffic at issue when he explains
5 that “with respect to traffic between any AT&T customer and any BellSouth customer
6 within the same LATA, AT&T has direct trunking to each BellSouth tandem in the
7 LATA so that such traffic may be completed without transiting multiple AT&T
8 switches or multiple BellSouth tandems.” (emphasis added). Here, Mr. Follensbee
9 simply demonstrates that BellSouth’s tandem switch performs the tandem function for
10 such local traffic – AT&T’s switch is functioning only as an end office switch. In fact,
11 this statement further confirms that AT&T is not performing a tandem function. Mr.
12 Follensbee’s description indicates that calls from BellSouth local customers to AT&T
13 local customers are delivered directly to the switch serving the AT&T customer.
14 Indeed, as evidenced by Mr. Follensbee’s testimony, there is no intermediate switch
15 on AT&T’s network for local calls, so AT&T can’t be incurring tandem switching
16 costs. In fact, AT&T only has one switch located in Kentucky. Mr. Follensbee’s
17 Exhibits GRF-6a and GRF-6b indicate that AT&T is also using switches located in
18 Indiana and Ohio to provide local service to AT&T’s end user customers in
19 Kentucky.

20

21 Q. DO YOU AGREE WITH MR. FOLLENSBEE’S CONTENTION THAT
22 AT&T’S SWITCHES PERFORM THE “AGGREGATION” FUNCTION
23 TYPICAL OF TANDEM SWITCHES?

24

25 A. No. As I explained in my direct testimony, local tandem switches are used to
26 aggregate traffic from numerous end office switches in a local calling area when it is

1 more economical to route local traffic in that manner than to install direct trunk groups
2 between each and every end office switch. When there are a lot of end office
3 switches in a local calling area, using a local tandem switch to aggregate traffic and to
4 act as a central connection point makes economic sense and avoids a lot of extra
5 trunking that would otherwise be required to ensure that call blockage was limited to
6 acceptable levels. I would note that any one BellSouth local tandem only aggregates
7 local traffic for wire centers in the same local calling area in which the local tandem is
8 physically located. I also must point out that Mr. Follensbee's Exhibit GRF-6c
9 inaccurately states that four of BellSouth's local tandems in Kentucky "serve multiple
10 LATAs." Of course, BellSouth's tandems cannot "serve multiple LATAs" since
11 BellSouth is not authorized to provide interLATA service.

12
13 BellSouth's local network generally consists of local tandem switches, end office
14 switches and interoffice transport. However, AT&T's local network generally
15 consists of a single switch and long loops connecting the switch to AT&T's
16 subscribers.

17
18 When BellSouth routes a local call from a CLEC such as AT&T through one of
19 BellSouth's tandems, BellSouth completes the call by first switching the call at the
20 tandem, transporting the call to the appropriate local end office and then switching the
21 call to the called party. BellSouth then charges AT&T reciprocal compensation
22 based on the appropriate tandem switching rate, transport rate and local switching
23 rate, since all of these parts of BellSouth's network were used in transporting and
24 terminating the call.

25

1 On the other hand, when BellSouth hands off one of its local calls to AT&T, AT&T
2 carries the call back to its end office switch, where the call is switched once and then
3 placed on the appropriate loop to reach the intended recipient of the call. That is,
4 because of AT&T's network design, the call is only switched once, and there are no
5 interoffice transport facilities involved. According to Mr. Follensbee, AT&T has
6 chosen this design because it is cheaper for AT&T to build long loops rather than to
7 build switches.

8
9 Nevertheless, and in spite of the fact that only one switch is involved, AT&T wants
10 BellSouth to pay reciprocal compensation to AT&T for calls placed from BellSouth's
11 local subscribers to AT&T's local subscribers at a rate equal to the total of the
12 tandem switching rate and the end office switching rate for every such call AT&T
13 handles. Indeed, AT&T's position that it is entitled to reciprocal compensation from
14 BellSouth at the tandem switching rate for every local call it terminates from BellSouth
15 is simply nonsensical.

16
17 For example, consider an AT&T end office switch in Louisville that is connected
18 directly to a BellSouth end office also located in Louisville. When an AT&T end user
19 originates a local call in Louisville that is routed directly to BellSouth's end office
20 switch in Louisville, BellSouth will bill AT&T reciprocal compensation at the end
21 office switching rate because that is the only portion of BellSouth's network that was
22 used to terminate the local call. However, AT&T's position is that, in this example, if
23 the local call originates from the same BellSouth end user and terminates to the same
24 AT&T end user, AT&T is due reciprocal compensation from BellSouth at the tandem
25 switching rate (again, the sum of the end office switching rate and the tandem
26 switching rate). The exact same end users are involved in both calls, the same

1 switches are used in both calls, yet AT&T's position results in one call generating
2 reciprocal compensation at the end office switching rate, while the other call generates
3 reciprocal compensation at the higher tandem switching rate. A position that leads to
4 such an illogical conclusion simply cannot be right

5

6 Q. PLEASE RESPOND TO AT&T's CLAIM AT PAGE 53 THAT ITS SWITCHES
7 COVER A GEOGRAPHIC AREA COMPARABLE TO THE AREA COVERED
8 BY BELLSOUTH'S TANDEMS.

9

10 A. Mr. Follensbee has provided maps indicating the geographic area AT&T's switches
11 "cover." Of course, it is a very simple matter to color in areas on a map and to claim
12 that these areas are "covered" by switches. However, in order to establish that
13 AT&T's switches actually serve a geographic area comparable to that served by the
14 incumbent local exchange carrier's tandem switches, AT&T must show the particular
15 geographic area it serves, not the geographic area that its switches can serve. (See
16 47 C.F.R. § 51.711(a)(3)). In order to make a showing that AT&T's switches serve
17 a geographic area equal to or greater than that served by BellSouth's tandem
18 switches, AT&T must provide information showing the location of its customers and
19 give some indication as to how its customers are actually being served by AT&T's
20 switches. (MCI Telecommunications Corp. v. Illinois Bell Telephone, 1999 U.S.
21 Dist. LEXIS 11418 (N.D. Ill. June 22, 1999)).

22

23 To illustrate the importance of this point, assume AT&T has one thousand customers
24 in downtown Louisville, all of which are located in a single office complex next door
25 to AT&T's Louisville switch. Under no set of circumstances could AT&T seriously
26 argue that, in such a case, its switch serves a comparable geographic area to

1 BellSouth's tandem switch. See Decision 99-09-069, In re: Petition of Pacific Bell
2 for Arbitration of an Interconnection Agreement with MFS/WorldCom, Application
3 99-03-047, 9/16/99, at 15-16 (finding "unpersuasive" MFS's showing that its switch
4 served a comparable geographic area when many of MFS's ISP customers were
5 actually collocated with MFS's switch).

6
7 AT&T has offered no information to the Commission to demonstrate that its switches
8 currently serve areas comparable to BellSouth's tandem. AT&T has not provided
9 the Commission with the location of its customers in Kentucky, information which
10 would be essential for the Commission to determine whether AT&T's switches
11 actually serve areas comparable to BellSouth's tandem switches. Absent such
12 evidence, AT&T has clearly failed to satisfy its burden of proof on this issue.

13
14 ***Issue 13: What is the appropriate treatment of outbound voice calls over internet***
15 ***protocol ("IP") telephony, as it pertains to reciprocal compensation? (Attachment 3)***

16
17 Q. PLEASE ADDRESS MR. FOLLENSBEE'S VIEW OF HOW THE FCC HAS
18 ADDRESSED THE ISSUE OF REGULATING PHONE-TO-PHONE
19 INTERNET PROTOCOL TELEPHONY.

20
21 A. Mr. Follensbee's testimony makes clear that the FCC has danced around the issue of
22 Internet Protocol ("IP") telephony without making any definitive rulings on how traffic
23 routed via such protocol will be treated. As Mr. Follensbee says, the FCC has not
24 ruled that switched access charges are applicable to such calls. Of course, neither
25 has the FCC ruled that switched access charges are not applicable to such calls.
26 Indeed, as I pointed out in my direct testimony, in its April 10, 1998 Report to

1 Congress the FCC stated that “the record currently before us suggests that this type
2 of IP telephony (i.e., phone-to-phone service) lacks the characteristics that would
3 render them ‘information services’ within the meaning of the statute, and instead bear
4 the characteristics of ‘telecommunication services’.” (§ 89). Because the FCC has
5 not made a determination that voice calls transmitted using IP telephony represent
6 information services, and because only information services are exempted from paying
7 access charges, the FCC has obviously not determined that calls made over IP
8 Telephony are exempt from access charges.

9
10 Indeed, a complete reading of the FCC’s report makes clear that the FCC recognizes
11 the significant impact that a decision to treat IP telephony as “information services”
12 rather than as “telecommunications services” would have on existing universal service
13 mechanisms. The FCC indicated that upcoming proceedings with more focused
14 records would ensue prior to any final determination. (*Id.*, § 91).

15
16 Q. PLEASE ADDRESS MR. FOLLENSBEE’S RELIANCE ON A SPEECH GIVEN
17 BY FCC CHAIRMAN KENNARD ON SEPTEMBER 12, 2000.

18
19 A. It is not clear from Chairman Kennard’s September 12, 2000, speech that he was
20 actually referring to “voice calls over IP telephony”. Indeed, it is likely that he was
21 referring to “voice calls over the Internet” which, as I explained in my direct
22 testimony, is not what BellSouth is addressing in this issue.

23
24 Obviously, this terminology is unfamiliar and subject to misuse and misinterpretation.
25 The bare fact is that a long distance voice communication does not become an
26 enhanced service when it is transmitted over a packet switched network rather than

1 over a circuit switched network. Therefore, BellSouth requests the Commission to
2 determine that access charges, rather than reciprocal compensation, apply to long
3 distance calls, regardless of the technology used to transport the calls.
4

5 ***Issue 21: Should the Commission or a third party commercial arbitrator resolve***
6 ***disputes under the Interconnection Agreement?***
7

8 Q. WHY IS AT&T'S LATEST PROPOSED LANGUAGE ON THIS ISSUE NOT
9 ACCEPTABLE TO BELLSOUTH?
10

11 A. AT&T has offered BellSouth the sleeves out of AT&T's vest. AT&T's latest
12 proposal, if accepted, would typically result in disputes under the Interconnection
13 Agreement being resolved by a commercial arbitrator. I say this because AT&T's
14 proposed language lays out three situations. First, the parties could agree that the
15 dispute would be heard by the Commission. Second, the parties could agree that the
16 dispute would be heard by a commercial arbitrator. Third, if the parties cannot agree,
17 then the aggrieved party will choose the method of resolution.
18

19 Based on these three possibilities, it is hard to imagine an example where AT&T is the
20 aggrieved party, and commercial arbitration does not end up being the method of
21 resolution. Mr. Follensbee makes clear in his testimony that AT&T believes disputes
22 can be resolved more quickly through the alternative dispute resolution process than
23 through the Commission. As I explained in my direct testimony, BellSouth disagrees
24 with AT&T that using a commercial arbitrator is a speedy process. Because one
25 party would likely be staked out as wanting disputes to be heard by a commercial
26 arbitrator, and the other party would likely be staked out as wanting disputes to be

1 heard by the Commission, it is unlikely that the parties would agree on the method of
2 resolution. Therefore, assuming that AT&T is the aggrieved party, AT&T's
3 proposed language would likely result in AT&T's choosing the method.

4
5 Q. PLEASE RESPOND TO MR. FOLLENSBEE'S CONCERN AS STATED AT
6 PAGES 63-64 THAT SERVICE AFFECTING DISPUTES THAT REQUIRE
7 IMMEDIATE RESOLUTION MIGHT BE DELAYED FOR NINE TO TWELVE
8 MONTHS DUE TO THE AUTHORITY HAVING A FULL CALENDAR.

9
10 A. First, I am certain that the Commission will take whatever steps are necessary to
11 resolve service affecting disputes in as expeditious a manner as possible. Second,
12 BellSouth does not share AT&T's view that commercial arbitration is a speedy process.
13 Further, BellSouth has serious concerns about the ability to secure neutral arbitrators
14 who have a sufficient understanding of the issues. Again, BellSouth believes that this
15 Commission is more capable of handling disputes between telecommunications carriers
16 than are commercial arbitrators. BellSouth should not be obligated to waive its right to
17 have the Commission hear disputes.

18
19 Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?

20
21 A. Yes.

22
23 PC DOCS #247718