

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Complaint of US LEC of Florida, Inc. against)
BellSouth Telecommunications, Inc. for)
Breach of Terms of Florida Interconnection)
Agreement under Sections 251 and 252 of)
the Telecommunications Act of 1996, and)
Request For Relief)

Docket No. 990874-TP
Filed: February 25, 2000

RECORDS AND REPORTING

US LEC OF FLORIDA, INC.'S OBJECTIONS TO
BELLSOUTH TELECOMMUNICATIONS, INC.'S
FIRST INTERROGATORIES

GENERAL OBJECTIONS

US LEC of Florida, Inc. ("US LEC") asserts the following objections with respect to each and every interrogatory served by BellSouth Telecommunications, Inc. ("BellSouth"):

1. US LEC objects to each interrogatory to the extent that any response would require the inclusion of information protected by the attorney-client privilege, the work product doctrine, the joint defense privilege or any other discovery privilege recognized under the Florida Rules of Civil Procedure or other applicable Florida law.

2. US LEC objects to each interrogatory to the extent it seeks disclosure of trade secrets, confidential, or competitively confidential information. US LEC will only produce such information upon the execution of a Confidentiality Agreement and/or Protective Order providing, among other things, that such information shall be used solely for purposes of these

proceedings, and that access and distribution of such information within BellSouth will be strictly limited to those needing access for the purposes of these proceedings.

3. US LEC objects to BellSouth's definition of "US LEC" in that such definition includes "US LEC of Florida Inc., any predecessors in interest, its parent, subsidiaries, and affiliates, their present and former officers, employees, agents, directors and all other persons

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acting or purporting to act on behalf of US LEC of Florida, Inc." For purposes of responding to BellSouth's interrogatories, US LEC interprets "US LEC" to be US LEC of Florida Inc., its predecessors in interest, and all other persons acting or purporting to act on behalf of US LEC of Florida Inc. To the extent that any interrogatory seeks information about any entity other than US LEC of Florida Inc., US LEC objects to such requests because they are irrelevant and overbroad.

4. US LEC objects to the BellSouth's instruction (b) as unduly burdensome and overly broad because it requests an identification of each time the privilege applies to an interrogatory and a description of the basis for the assertion of privilege. In the context of interrogatories (as opposed to document requests), this is entirely unreasonable. There is no way realistically to perform such a task in response to interrogatories without identifying the privileged information itself, which would make the assertion of the privilege worthless. Moreover, BellSouth has not done so. US LEC will perform only those obligations required under Florida law related to the identification of privileged information.

5. US LEC objects to the Definitions and Instructions inserted into BellSouth's Interrogatories to the extent that such definitions and instructions attempt to exceed the obligations imposed on US LEC by the applicable rules of procedure in the State of Florida and by this Commission. For example, US LEC objects to BellSouth's instruction (e) demanding that US LEC supplement its discovery responses; such supplementation is not required by the Florida Rules of Procedure.

INTERROGATORIES

In addition, US LEC asserts the following specific objections.

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

OBJECTION: US LEC objects to this interrogatory to the extent that it requires US LEC to identify clerical or administrative staff who assist in the physical preparation of answers to these interrogatories.

4. Identify all employees, representatives, or agents of US LEC involved in the negotiating the November 1996 Agreement, the June 1998 Agreement, or the June 1999 Agreement, including any amendments thereto. In answering this Interrogatory, please explain in detail the role of each such employee, representative, or agent in the negotiations.

OBJECTION: US LEC objects to this interrogatory to the extent that it requires US LEC to identify clerical or administrative staff who may have performed clerical duties in connection with the negotiation of the interconnection agreements at issue in this proceeding.

5. Do you contend that at the time the parties negotiated the November 1996 Agreement, both US LEC and BellSouth intended to treat calls to Internet Service Providers as "local traffic" under that Agreement? If the answer to the foregoing is in the affirmative, please state all facts and identify all documents that support this contention.

OBJECTION: US LEC objects to this interrogatory on the grounds that it seeks discovery of information found in US LEC's pre-filed testimony which BellSouth already has received.

6. Do you contend that at the time the parties negotiated the June 1998 Agreement, both US LEC and BellSouth intended to treat calls to Internet Service Providers as "local traffic" under that Agreement? If the answer to the foregoing is in the affirmative, please state all facts and identify all documents that support this contention.

OBJECTION: US LEC objects to this interrogatory on the grounds that it seeks discovery of information that is not relevant to any issue in dispute in this proceeding and is not reasonably calculated to lead to the discovery of admissible evidence. US LEC "opted into" the existing agreement between BellSouth and ALEC. Under 47 U.S.C. § 252(i), the intent of ALEC and BellSouth when that interconnection agreement was negotiated controls the issue in this lawsuit. The intent of US LEC and BellSouth when US LEC opted into the ALEC and Intermedia Interconnection Agreements is irrelevant to these proceedings. Therefore, US LEC objects to answering an interrogatory because any such information is irrelevant to this proceeding. *See also* US LEC's objections to interrogatory 5.

7. Do you contend that at the time the parties negotiated the June 1999 Agreement, both US LEC and BellSouth intended to treat calls to Internet Service Providers as "local traffic" under that Agreement? If the answer to the foregoing is in the affirmative, please state all facts and identify all documents that support this contention.

OBJECTION: See objections to Interrogatories 5 and 6.

8. Do you contend that at the time the parties negotiated the November 1996 Agreement, both US LEC and BellSouth intended to treat calls to Internet Service Providers

("ISP") as if such calls "terminated" at the ISP? If the answer to the foregoing is in the affirmative, please state all facts and identify all documents that support this contention.

OBJECTION: See objection to Interrogatory 5.

9. Do you contend that at the time the parties negotiated the June 1998 Agreement, both US LEC and BellSouth intended to treat calls to Internet Service Providers ("ISP") as if such calls "terminated" at the ISP? If the answer to the foregoing is in the affirmative, please state all facts and identify all documents that support this contention.

OBJECTION: See objections to Interrogatories 5 and 6.

10. Do you contend that at the time the parties negotiated the June 1999 Agreement, both US LEC and BellSouth intended to treat calls to Internet Service Providers ("ISP") as if such calls "terminated" at the ISP? If the answer to the foregoing is in the affirmative, please state all facts and identify all documents that support this contention.

OBJECTION: See objections to Interrogatories 5 and 6.

11. Do you contend that there is a difference between the place where a call "terminates" for jurisdictional purposes and the place where a call "terminates" for reciprocal compensation purposes? If the answer to the foregoing is in the affirmative, please:

(a) explain in detail the distinction between call termination for jurisdictional and reciprocal compensation purposes;

(b) state the date and describe the circumstances when US LEC first concluded that there was a distinction between call termination for jurisdictional and reciprocal compensation purposes;

(c) state the date and describe the circumstances when US LEC first stated publicly that there was a distinction between call termination for jurisdictional and reciprocal compensation purposes;

(d) identify all documents that refer or relate to or support a distinction between call termination for jurisdictional and reciprocal compensation purposes.

OBJECTION: US LEC objects to this interrogatory because it is ambiguous and it seeks discovery of a legal conclusion as opposed to facts and evidence. Any factual information supporting its arguments is contained in US LEC's pre-filed testimony.

13. For each month since November 1996, state how many of the ISP minutes of use from BellSouth to US LEC in Florida you contend "terminated" for jurisdictional purposes in the local calling area.

OBJECTION: See Objection to Interrogatory No. 11. Further, US LEC objects to this interrogatory as unduly burdensome. US LEC does not maintain this information in the regular course of business.

14. In answering the foregoing Interrogatory, please explain in detail the basis for your contention and identify all documents that support or refer or relate to such contention.

OBJECTION: US LEC objects to this interrogatory because it is ambiguous and unduly burdensome. US LEC also objects to this interrogatory on the grounds that it seeks

discovery of a legal conclusion as opposed to facts and evidence. Any factual information supporting its arguments is contained in US LEC's pre-filed testimony. *See also*, US LEC's objections to Interrogatory No. 11.

15. For each month since November 1996, state how many of the ISP minutes of use from BellSouth to US LEC in Florida you contend "terminated" for reciprocal compensation purposes in the local calling area.

OBJECTION: See objection to Interrogatory No. 11. Further, US LEC objects to this interrogatory as unduly burdensome. US LEC does not maintain this information in the regular course of business.

16. In answering the foregoing Interrogatory, please explain in detail the basis for your contention and identify all documents that support or refer or relate to such contention.

OBJECTION: US LEC objects to this interrogatory because it is ambiguous and unduly burdensome. US LEC also objects to this interrogatory on the grounds that it seeks discovery of a legal conclusion as opposed to facts and evidence. Any factual information supporting its arguments is contained in US LEC's pre-filed testimony. *See also*, US LEC's objections to Interrogatory No. 11.

17. State the number of minutes of use from BellSouth to US LEC in Florida for each month since November 1996 for which US LEC is seeking the payment of reciprocal compensation that are attributable to what US LEC has described as "information processing." (Docket 9577-U, Tr. at 124).

OBJECTION: US LEC objects to this interrogatory on the grounds that the information it seeks is completely irrelevant to the dispute between the parties. In addition, US LEC objects on the ground that the request is overly broad and unduly burdensome in that it would require US LEC to spend unreasonable amounts of time and to commit substantial resources attempting to ascertain information that has no bearing on the dispute between the parties. In addition, US LEC objects to this interrogatory because it seeks disclosure of highly competitive confidential, proprietary, and trade secret information.

18. Describe in detail what US LEC means by the term "information processing" (Docket 9577-U, Tr. at 124), including a description of the services US LEC provides to support such an offering.

OBJECTION: US LEC objects to this interrogatory on the grounds that the information it seeks is completely irrelevant to the dispute between the parties. The services that US LEC offers to its customers and the services that those customers, in turn, offer to others have no bearing on any claim or defense raised in this proceeding and are not reasonably calculated to lead to the discovery of any admissible evidence. In addition, US LEC objects to this interrogatory because it seeks disclosure of highly competitive confidential, proprietary, and trade secret information.

19. Identify the customers that US LEC serves in Florida that offer "information processing" for which US LEC is seeking reciprocal compensation from BellSouth.

OBJECTION: US LEC objects to this request because it requires the identification of specific customers and the production of customer information which is highly competitive

proprietary and trade secret information of US LEC. US LEC further objects because such information is not relevant to these proceedings nor likely to lead to the discovery of admissible evidence. US LEC should not be required to provide specific customer information which BellSouth can use to compete directly with US LEC.

20. Are any customers that US LEC serves in Florida that offer "information processing" for which US LEC is seeking reciprocal compensation from BellSouth in any way affiliated with US LEC. If the answer to the foregoing is in the affirmative, state the nature of the affiliation and identify all documents that refer or relate to such affiliation.

OBJECTION: US LEC objects to this request because it requires the production of customer information which is highly competitive proprietary and trade secret information of US LEC. US LEC further objects because such information is not relevant to these proceedings nor likely to lead to the discovery of admissible evidence in these proceedings. US LEC should not be required to provide specific customer information which BellSouth can use to compete directly with US LEC.

21. Has US LEC entered into any arrangement or agreement with any person that involves the sharing of any reciprocal compensation received by US LEC from BellSouth? If the answer to the foregoing is in the affirmative, identify the person, state the date when such an arrangement was reached or agreement was entered into, and identify all documents referring or relating to such an arrangement or agreement.

OBJECTION: US LEC objects to this interrogatory because the information it seeks is completely irrelevant to the dispute between the parties. In addition, US LEC objects to this

interrogatory on the grounds that it is overly broad and unduly burdensome in that it would require US LEC to spend unreasonable amounts of time and to commit substantial resources attempting to identify documents that have no bearing on the dispute between the parties. In addition, US LEC objects to this interrogatory because it seeks disclosure of highly competitive confidential, proprietary, and trade secret information.

22. Has US LEC provided telecommunications services to any person with whom US LEC has entered into any arrangement or agreement that involves the sharing of reciprocal compensation received by US LEC from BellSouth? If the answer to the foregoing is in the affirmative, identify the person, describe the telecommunications services US LEC has provided, and identify all documents referring or relating to such telecommunications services.

OBJECTION: US LEC objects to this interrogatory because all of the information it seeks is completely irrelevant to the dispute between the parties. In addition, US LEC objects to this interrogatory on the grounds that it is overly broad and unduly burdensome in that it would require US LEC to spend unreasonable amounts of time and to commit substantial resources attempting to identify documents that have no bearing on the dispute between the parties. In addition, US LEC objects to this interrogatory because it seeks disclosure of highly competitive confidential, proprietary, and trade secret information.

24. Identify the number of US LEC's total customers in Florida, and separately identify the number of those customers that are (1) Internet Service Providers ("ISPs"); and (2) business customers other than ISPs; and (3) residential customers.

OBJECTION: US LEC objects to this interrogatory on the grounds that the information it seeks is completely irrelevant to the dispute between the parties. The number of customers that US LEC serves and the types of customers that US LEC serves have no bearing on any claim or defense raised in this proceeding and are not reasonably calculated to lead to the discovery of any admissible evidence. In addition, US LEC objects to this interrogatory because it seeks disclosure of highly competitive confidential, proprietary, and trade secret information.

25. For the ISP customers identified in response to Interrogatory No. 24, state, on an annual basis since 1996, (a) the total amount billed by US LEC for service to those customers from inception of service to present; (b) the amounts of any credits, rebates, or adjustments given to such customers; and (c) the total amount of revenue collected from such customers, from inception of service to present.

OBJECTION: See objections to Interrogatory No. 24.

28. For each year beginning in 1996, state, on an annual basis, the total revenues US LEC earned or expects to earn in reciprocal compensation payments from BellSouth in Florida.

OBJECTION: US LEC objects to this interrogatory because it is vague and ambiguous in failing to define "revenues" or explain what it means by the phrase "earned or expects to earn." Further, US LEC objects this interrogatory to the extent it seeks information about US LEC "revenues" because such information is irrelevant to this proceeding. Finally, US LEC objects to this interrogatory because it seeks disclosure of confidential, proprietary, and trade secret information. Subject to the objections and limitations stated herein, US LEC will provide the

amount of reciprocal compensation that was billed by US LEC to BellSouth for each year through the February 2000 bill.

29. For each year beginning in 1996, state, on an annual basis, the total revenues US LEC earned or expects to earn from its ISP customers in Florida.

OBJECTION: US LEC objects to this interrogatory because it seeks information about US LEC's relationships with its end-user customers in Florida which is completely irrelevant to these proceedings. US LEC also objects to this interrogatory because it is vague and ambiguous in failing to define "revenues" or explain what it means by the phrase "earned or expects to earn." Further, US LEC objects this interrogatory to the extent it seeks information about US LEC "revenues" because such information is irrelevant to this proceeding. Finally, US LEC objects to this interrogatory because it seeks disclosure of confidential, proprietary, and trade secret information.

30. For each year beginning in 1996, state, on an annual basis, the total revenues US LEC earned or expected to earn from its end-user customers, including ISPs, in Florida.

OBJECTION: US LEC objects to this interrogatory because it seeks information about US LEC's relationships with its end-user customers in Florida which is completely irrelevant to these proceedings. US LEC also objects to this interrogatory because it is vague and ambiguous in failing to define "revenues" or explain what it means by the phrase "earned or expects to earn." Further, US LEC objects this interrogatory to the extent it seeks information about US LEC "revenues" after 1996 when the Interconnection Agreement was entered between the parties because such information is irrelevant to this proceeding. Finally, US LEC objects to this

interrogatory because it seeks disclosure of confidential, proprietary, and trade secret information.

31. State US LEC's total dollar investment in Florida, including the total dollar investment in switches, outside plant, and support assets.

OBJECTION: US LEC objects to this interrogatory because it seeks disclosure of highly competitive confidential, proprietary and trade secret information. US LEC also objects on the basis that such request seeks information that is not relevant to these proceedings nor reasonably calculated to lead to the discovery of admissible evidence in these proceedings.

32. State the total number of end user customers that US LEC serves in Florida.

OBJECTION: See objections to Interrogatory 24.

33. State the total number of ISP customers that US LEC serves in Florida.

OBJECTION: See objections to Interrogatory 24.

34. State the actual cost US LEC incurs in transporting ISP traffic from the point of interconnection with BellSouth to the ISP server being served by a US LEC switch. In answering this Interrogatory, describe in detail how this cost was calculated and identify all documents referring or relating to such calculation.

OBJECTION: US LEC objects to this interrogatory because it seeks disclosure of confidential, proprietary, and trade secret information. Further, US LEC objects to this interrogatory as unduly burdensome because US LEC has never computed the actual cost to transport ISP traffic as requested in this interrogatory. US LEC does not maintain this information in the regular course of business. Moreover, US LEC also objects to this interrogatory on the grounds that it's costs are entirely irrelevant to whether US LEC and BellSouth intended to compensate each other for exchanging traffic bound for ISPs.

This 25th day of February, 2000.



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CERTIFICATE OF SERVICE

Docket No. 990874-TP

I HEREBY CERTIFY that a true and correct copy of the foregoing US
LEC's Objections to BellSouth's First Set of Interrogatories was served via hand
delivery* or Federal Express for overnight delivery** this 25th day of February,
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