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April 19, 2001

Mrs. Blanca S. Bayó
Director, Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: 000075-TP <u>(Generic ISP Docket)</u>

Dear Ms. Bayó:

Enclosed is an original and fifteen copies of BellSouth Telecommunications, Inc.'s Rebuttal Testimony of John A. Ruscilli and William E. Taylor, Ph.D, which we ask that you file in the captioned docket.

A copy of this letter is enclosed. Please mark it to indicate that the original was filed and return the copy to me. Copies have been served to the parties shown on the attached Certificate of Service.

Sincerely,

James Meza III (KA)

James Meza III

Enclosures

cc: All Parties of Record
Marshall M. Criser III
R. Douglas Lackey
Nancy B. White

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CERTIFICATE OF SERVICE
Docket No. 000075-TP

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via U.S. Mail this 19th day of April, 2001 to the following:

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(+) Signed Protective Agreement

BELLSOUTH TELECOMMUNICATIONS, INC.

REBUTTAL TESTIMONY OF JOHN A. RUSCILLI

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 000075-TP (PHASE II)

APRIL 19, 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. HAVE YOU PREVIOUSLY FILED TESTIMONY IN THIS DOCKET?

A. Yes. I filed direct testimony on March 12, 2001.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY BEING FILED TODAY?

A. My testimony responds to the direct testimony filed by several witness in this proceeding on March 12, 2001. Specifically, I will address portions of the testimony of Mr. Timothy J. Gates filed on behalf of Level 3 Communications, LCC ("Level 3); Mr. Gregory R. Follensbee filed on behalf of AT&T Communications of the Southern States, Inc. ("AT&T"), TCG of South Florida

("TCG"), and MediaOne Florida Telecommunications, Inc. ("MediaOne"); and Mr. Mark Argenbright filed on behalf of MCI WorldCom, Inc. ("WorldCom").

On March 14, 2001 the Commission issued its Order on Schedule and Issues for Phase II (Order No. PSC-01-0632-PCO-TP). The Issues List attached to this Order contained an additional issue (Issue 18) that was not included in the Commission's December 7, 2000 Order Adopting, Incorporating, and Supplementing Order No. PSC-00-2229-PCO-TP. Since I was unable to address this additional issue in my direct testimony filed on March 12, I have included discussion of BellSouth's position on this issue in this testimony.

Issue 12: Pursuant to the Act and FCC's rules and orders:

(a) Under what conditions, if any, is an ALEC entitled to be compensated at the ILEC's tandem interconnection rate?

(b) What is "similar functionality?"

(c) What is "comparable geographic area?"

Q. PLEASE ADDRESS MR. ARGENBRIGHT'S CLAIM ON PAGE 10 THAT THE "FUNCTIONALITY" TEST IS UNNECESSARY IF THE ALEC SERVES A COMPARABLE GEOGRAPHIC AREA.

A. Mr. Argenbright is incorrect. As I discussed in my direct testimony, the FCC has a two-part test to determine if a carrier is eligible for tandem switching 1) an ALEC's switch must serve the same geographic area as the ILEC's tandem switch, and 2) an ALEC's switch must perform tandem switching functions. His contention that the higher rate must be applied automatically simply based on the geographic area its switch may serve is incorrect and ignores the FCC's two-prong test.

Q. ON PAGES 10-11, MR. ARGENBRIGHT QUOTE'S FCC RULE 51.711(a), PLACING EMPHASIS ON SUBPART (3) OF THE RULE AND BASICALLY IGNORING SUBPART (1). HAS MR. ARGENBRIGHT ACCURATELY INTERPRETED THIS RULE?

A. Absolutely not. Mr. Argenbright self-servingly ignores subpart (1) of this rule. Subpart (1) clearly states that symmetrical rates assessed by an ALEC upon an ILEC for transport and termination of local traffic are equal to the rates "that the incumbent LEC assesses upon the other carrier of the ***same services".*** (Emphasis added). "Same services" equates to the same functions that the ILEC performs to terminate the ALEC's originating local traffic. An ALEC is only entitled to assess tandem switching charges upon BellSouth when the ALEC actually performs the tandem switching function and serves an area comparable to the area served by BellSouth's tandem switch to terminate a local call originating from a BellSouth end user. Similarly, BellSouth may only seek recovery of tandem switching charges from an ALEC when BellSouth performs the tandem switching function to terminate a local call originating from an ALEC's end user.

Q. PLEASE RESPOND TO MR. ARGENBRIGHT'S DISCUSSION ON PAGES 14-15 REGARDING THE PHYSICAL AND GEOGRAPHIC "REACH" OF ALEC'S NETWORKS.

A. Mr. Argenbright's discussion concerning the technology that an ALEC uses to "extend the reach of their network" simply points out that ALECs may deploy long loops to reach end users. As the FCC made perfectly clear, reciprocal compensation is not paid for loop costs, but rather for the cost of transporting and terminating local calls. Specifically, the FCC held: "costs of local loops and line ports associated with local switches do not vary in proportion to the number of calls terminated over these facilities. We conclude that such non-traffic sensitive costs should not be considered 'additional costs' when a LEC terminates a call that originated on the network of a competing carrier." (*See* First Report and Order, In re: Implementation of Local Competition Provisions in the Telecommunications Act of 1996, 11 FCC Rcd 15499, CC Docket No. 96-98, ¶ 1057 (Aug. 8, 1996) ("First Report and Order"). Obviously, the FCC intends for the terminating LEC to recover its loop costs from the end user customer, not the originating LEC.

Issue 14: (a) What are the responsibilities of an originating local carrier to transport its traffic to another local carrier?

(b) For each responsibility identified in part (a), what form of compensation, if any, should apply?

Q. ON PAGE 16 OF THE TESTIMONY OF MR.GATES MAKES THE STATEMENT THAT "THE INCUMBENT LEC ('ILEC') SHOULD NOT BE PERMITTED TO IMPOSE INTERCONNECTION REQUIREMENTS ON ALTERNATIVE LECs ('ALECs') THAT REQUIRE ALECs TO DUPLICATE THE ILEC'S LEGACY NETWORK ARCHITECTURE." DO YOU AGREE?

A. Yes. As I stated in my direct testimony, BellSouth does not require ALECs to duplicate BellSouth's network architecture. An ALEC can configure its network in whatever manner it chooses. The issue here is not, however, how an ALEC's network may be configured, but whether BellSouth will be compensated for hauling local traffic that originates and ultimately terminates in the same local calling area, outside that local calling area, at no charge to the ALEC. Plainly, BellSouth is entitled to compensation under these circumstances.

Q. ON PAGE 22 OF HIS TESTIMONY, MR. GATES INCLUDES A QUOTE FROM THE TSR ORDER THAT MAKES REFERENCE TO "'RULES OF THE ROAD' UNDER WHICH ALL CARRIERS OPERATE". PLEASE COMMENT AS TO WHETHER THIS QUOTE IS RELEVANT TO THE ISSUE AT HAND.

A. The TSR Order cited by Mr. Gates refers to the June 21, 2000 Order in the TSR Wireless Complaint against US West. Based on the Order, on page 21of his testimony, Mr. Gates states, "[i]t is clear that each LEC bears the responsibility of operating and maintaining the facilities used to transport and deliver traffic on its side of the IP." Further, on page 23, "If an ALEC is forced to deploy or lease facilities from an ILEC's local calling areas to the POI, the ILEC will be getting a free ride." These conclusions drawn by Mr. Gates are wrong.

In the TSR Order, the FCC determined a couple of things. First, the FCC identified the Major Trading Area ("MTA") as the local calling area for telecommunications traffic between a LEC and a CMRS provider as defined in Section 51.701(b)(2). That really is not in dispute and was not in dispute in the

TSR case. The MTA has been defined, for CMRS purposes, as a local calling area. Second, the FCC determined that this rule, when read in conjunction with 51.703(b), requires LECs to deliver, without charge, traffic to CMRS providers anywhere within the local calling area, or MTA, in which the call originated. This point is significant and the FCC order deserves quoting. At paragraph 31, the FCC said that local exchange carriers are required "to deliver, without charge, traffic to CMRS providers anywhere within the MTA in which the call originated, with the exception of RBOC." The FCC did not say, in this case, that local exchange carriers were required to deliver calls to CMRS providers to points outside the MTA in which the call originated, but rather only had to deliver such traffic at no charge within the MTA where the call originated.

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 being addressed in this proceeding.

With regard to traffic that originates on the ILEC's network, the relevant area in which the traffic has to be delivered free of charge is defined in Section 51.701(b)(1) as the "local service area established by the state commission." To clarify, Section 51.701(b) provides as follows:

(b) <u>Local telecommunications traffic</u>. For purposes of this subpart, local telecommunications traffic means:

(1) telecommunications traffic between a LEC and a telecommunications carrier other than a CMRS provider that originates and terminates within a local service area established by the state commission; or

(2) telecommunications traffic between a LEC and a CMRS provider that, at the beginning of the call originates and terminates within the same Major Trading Area, as defined in § 24.202(a) of this chapter."

Therefore, BellSouth is not required, with regard to CMRS traffic, to deliver the traffic without charge to any point outside of the MTA. The MTA is a CMRS provider's "local service area." Applying the result of the TSR order to the issue in this proceeding, BellSouth should not be required, without appropriate compensation, to deliver traffic to an ALEC at any point outside of BellSouth's "local service area" established by the State Commission.

Q. HOW DOES THE FCC ADDRESS THE ISSUE OF ADDITIONAL COSTS CAUSED BY AN ALEC'S CHOSEN FORM OF INTERCONNECTION?

A. As stated in my direct testimony (page 23), in its First Report and Order in Docket 96-98, the FCC states that the ALEC must bear those costs. Paragraph 199 of the Order states that "a requesting carrier that wishes a 'technically feasible' but expensive interconnection would, pursuant to section 252(d)(1), <u>be required to bear the cost of that interconnection, including a reasonable profit</u>." Further, at paragraph 209, the FCC states that:

> Section 251(c)(2) lowers barriers to competitive entry for carriers that have not deployed ubiquitous networks by permitting them to select the points in an incumbent LEC's network at which they wish to deliver traffic. Moreover, because competing carriers must <u>usually compensate incumbent LECs for the additional costs incurred by providing interconnection</u>, competitors have an incentive to make economically efficient decisions about where to interconnect. (Emphasis added.)

BellSouth's position on this issue is consistent with the FCC's Order.

Q. MR. FOLLENSBEE SUGGESTS, AT PAGES 14-15 OF HIS TESTIMONY, AND WHILE DISCUSSING HIS EXHIBITS GRF-3 THROUGH GRF-5, THAT BELLSOUTH IS ATTEMPTING TO IMPOSE ADDITIONAL COSTS ON AT&T, RATHER THAN THE OTHER WAY AROUND AS YOU MAINTAIN. PLEASE EXPLAIN WHY MR. FOLLENSBEE IS WRONG?

A. First, let me say that I agree with what he has portrayed in his Exhibit GRF-3. Historically, when a BellSouth local subscriber in a BellSouth local calling area places a call to another BellSouth local subscriber in that same local calling area, BellSouth incurs the cost of switching at the originating caller's office, transport to the called party's end office and switching at the called party's end office. We do not have a dispute about that.

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

Turning to Mr. Follensbee's Exhibit GRF-5, however, I must say that AT&T has the story wrong. Or, more precisely, Mr. Follensbee is ignoring the distinction between local calls that never leave the local calling area and local calls that are hauled outside the local calling area. If everything that was pictured on Exhibit GRF-5 all took place within the BellSouth Jacksonville local calling area, Mr. Follensbee would be absolutely wrong. The BellSouth customer would originate a call, and BellSouth, once again, would deliver it to the designated Point of Interconnection. AT&T would pick up the call at the Point of Interconnection and carry it back to its switch. AT&T would then switch the call, and terminate it to its local customer. If all this happened in the Jacksonville local calling area, BellSouth would owe AT&T for call transport from the Point of Interconnection to AT&T's switch, and then would owe AT&T for local switching for terminating the call. On Exhibit GRF-5, the facility between the BellSouth switch and the AT&T switch appears to be a dedicated facility; so the transport paid in this situation by BellSouth would be some proportional share of the cost of the dedicated facility. The switching rate would be the normal end office rate established for reciprocal compensation.

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

Q. SO WHY IS THIS EVEN AN ISSUE?

A. It is an issue because Mr. Follensbee failed to include something on his exhibit that is critical to this issue. If AT&T's and BellSouth's networks were set up as pictured in Mr. Follensbee's exhibit, everything would be fine. What he has forgotten to point out is that even if AT&T has placed a local switch in a LATA, that switch may be located fifty or a hundred miles from the BellSouth local calling area that AT&T purports to serve. That is, in his Exhibit GRF-5, the BellSouth customer and the BellSouth switch may be located in Lake City, and the AT&T customer may be located in Lake City, but AT&T's switch might be located in Jacksonville. In such a case, AT&T has made the decision to locate the switch in a distant location because it was economical for AT&T. That is fine. BellSouth does not care that AT&T has located its switch that far away from the local calling area it is serving.

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

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

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

A. Mr. Follensbee is simply wrong. As much as he might wish that the FCC had adopted AT&T's position in the SBC Oklahoma/Kansas 271 decision, the FCC did not. Importantly, as Mr. Follensbee will agree, both AT&T and SBC presented the issue to the FCC.

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.

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 Florida 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. IS THERE AN ALTERNATIVE THAT HAS BEEN ADVOCATED BY SOME ALECs THAT THE COMMISSION COULD CONSIDER, THAT COULD ADDRESS SOME OF THE CONCERNS OF ALL PARTIES?

A. Yes. BellSouth's position is that an ALEC should bear the costs that BellSouth incurs for delivering a local call to a POI that is located outside of the local calling area in which the call originated, regardless of the volume of traffic. This cost may be borne by the ALEC paying BellSouth to transport the traffic, or by the

ALEC buying or leasing facilities at the additional POI. ALECs have argued that such an obligation is not warranted if the ALEC has only a small number of customers in a local calling area and therefore, BellSouth would only be transporting a small volume of traffic on behalf of the ALECs. These ALECs have argued that with a fewer number of POIs per LATA, and no requirement to compensate BellSouth for transport of calls to that POI from throughout the LATA, an ALEC would have more incentive to solicit customers throughout the LATA, rather than just in the most densely populated areas. However, even if this is true, there should be a balance between promoting efficiencies for the ALECs and forcing an ILEC such as BellSouth to subsidize those efficiencies by bearing all the costs for carrying its originating calls between local calling areas to reach an ALEC's designated POI. For these reasons, a compromise, such as a threshold level of traffic is an alternative this Commission could consider.

Q. WOULD BELLSOUTH BE WILLING TO AGREE TO A MINIMUM THRESHOLD OF TRAFFIC, BELOW WHICH AN ALEC IN FLORIDA WOULD NOT BE REQUIRED TO ESTABLISH A POINT OF INTERCONNECTION WITHIN THE LOCAL CALLING AREA OR PAY FOR TRANSPORT TO REACH A SINGLE POI?

A. Yes. BellSouth has reached agreement with two ALECs on this issue. As part of those settlement agreements, BellSouth has agreed that it will transport its originating local traffic to an ALEC POI across local calling areas until the traffic reaches a DS3 level. The relevant language from one such agreement is as follows:

Pursuant to the provisions of this Attachment, the location of the initial Interconnection Point in a given LATA shall be established by mutual agreement of the Parties. If the Parties are unable to agree to a mutual initial Interconnection Point, each Party, as originating Party, may establish a single Interconnection Point in the LATA for the delivery of its originated Local Traffic, ISP-bound Traffic, and IntraLATA Toll Traffic to the other Party for call transport and termination by the terminating Party. When the Parties mutually agree to utilize two-way interconnection trunk groups for the exchange of Local Traffic, ISP-bound Traffic and IntraLATA Toll Traffic between each other, the Parties shall mutually agree to the location of Interconnection Point(s).

Additional Interconnection Points in a particular LATA may be established by mutual agreement of the Parties. Absent mutual agreement, in order to establish additional Interconnection Points in a LATA, the traffic between CLEC-1 and BellSouth at the proposed additional Interconnection Point must exceed 8.9 million minutes of Local Traffic or ISP-bound Traffic per month for three consecutive months during the busy hour. Additionally, any end office to be designated as an Interconnection Point must be more than 20 miles from an existing Interconnection Point. BellSouth will not designate an Interconnection Point at a Central Office where physical or virtual collocation space or BellSouth fiber connectivity is not available, and BellSouth will not designate more than one Interconnection Point per local calling area unless such local calling area exceeds sixty (60) miles in any one *direction, in which case additional Interconnection Points may only be established in that local calling area pursuant to the other criteria set forth in this section.*

The threshold level of 8.9 million minutes of traffic per month is typically equivalent to a DS3 level. For BellSouth's own network management, traffic at a DS1 level is the point at which BellSouth adds additional capacity in the form of direct trunk groups to alleviate traffic congestion through the tandem. Also, in interconnection agreements between BellSouth and ALECs, ALECs are generally required to establish direct end office trunking at a DS1 level of traffic. In comparison, BellSouth is willing to allow the exchange of traffic between BellSouth and an ALEC at a given proposed additional interconnection point to reach a DS3 level (an equivalent of 28 DS1s) before the ALEC is required to either establish an additional POI or compensate BellSouth for hauling the traffic from the proposed additional POI to that ALEC's initial (or other) POI in the LATA.

Issue 15: (a) Under what conditions, if any, should carriers be permitted to assign NPA/NXX codes to end users outside the rate center in which the NPA/NXX is homed?

(b) Should the intercarrier compensation mechanism for calls to these NPA/NXXs be based upon the physical location of the customer, the rate center to which the NPA/NXX is homed, or some other criterion?

Q. MR. GATES TAKES THE POSITION ON PAGE 40 OF HIS TESTIMONY

THAT A VIRTUAL NXX CALL IS LOCAL AND THAT RECIPROCAL COMPENSATION IS DUE ON SUCH A CALL. DO YOU AGREE?

A. No. As I understand it, ALECs want to assign a telephone number that is associated with local calling area number 1 to an ALEC customer who is located in local calling area number 2. Mr. Gates then claims that because a BellSouth customer in local calling area number 1 dials what he perceives to be a local number to reach the ALEC customer in local calling area number 2, the call is somehow a "local" call. Mr. Gates' position, however, is wrong because it ignores the fact that regardless of the telephone number an ALEC assigns to its customer, the call I have just discussed originates in one local calling area and terminates in a different local calling area. The call, therefore, simply is not a local call, and BellSouth is not required to pay reciprocal compensation for the call.

Q. ON PAGE 28, MR. GATES STATES THAT BELLSOUTH ITSELF CURRENTLY ASSIGNS NXX CODES TO CUSTOMERS WHO ARE NOT PHYSICALLY LOCATED IN THE EXCHANGE AREA ASSOCIATED WITH A PARTICULAR NXX. IS THIS CORRECT?

A. Yes. As I explained in my direct testimony, BellSouth's foreign exchange ("FX") service allows an FX subscriber that is not physically located in a particular exchange area to receive a telephone number with an NXX code that is associated with that exchange area. As explained in my direct testimony, and contrary to Mr. Gates' claims on page 31, BellSouth has implemented systems changes that will enable us to identify and exclude such calls from reciprocal compensation billing.

Q. CAN YOU COMPARE THE VIRTUAL NXX ARRANGEMENT TO FX AND 800 SERVICES?

A. Yes. When BellSouth provides FX service to one if its subscribers, that FX subscriber compensates BellSouth for providing an extension of a circuit from the distant or "foreign" exchange to terminate in the calling area in which the FX subscriber is located. Thus, while the FX subscriber is physically located in one local calling area, it gives the appearance of being in a different local calling area, and callers in that different local calling area can place calls to the FX subscriber without paying toll charges. Even though these callers do not pay toll charges when they call the FX subscriber, BellSouth is compensated – by the FX subscriber – for transporting the call outside the local calling area in which it originated.

As I noted in my direct testimony, a virtual NXX is most similar to a toll free, or 800, number. An 800 number works the same way, except it is not limited to one local calling area – callers from several local calling areas may call the 800 subscriber without paying toll charges. The 800 subscriber, however, pays the provider for the service. In both examples, the call made is an interexchange toll call. In both examples, the person making the call does not pay the toll charges, but instead the subscriber receiving the call pays BellSouth to haul the call outside of the local calling area in which it originated.

Q. ON PAGES 26, MR. GATES DESCRIBES THE VALUE OF A VIRTUAL NXX SERVICE TO ALECS' ISP CUSTOMERS. PLEASE COMMENT.

A. The Virtual NXX service can be of value to an ALEC's ISP customers or to any other customers to whom the ALEC may choose to offer the service. Similarly, BellSouth's FX service can be of value to BellSouth's FX customers. That is not the issue. The issue is who should compensate the ALEC for providing the Virtual NXX service to its customers.

When BellSouth provides FX services, the FX customer who orders the service compensates BellSouth. If an ALEC wishes to charge its Virtual NXX customers for its Virtual NXX service, it is free to do so. ALECs, however, apparently wants to provide this service to its customers free of charge, and they want to subsidize its provision of this service to its customers by charging BellSouth reciprocal compensation for calls that are not local. As I explained above, this is neither permitted nor allowed by the 1996 Act or the FCC's rules.

Q. BEGINNING ON PAGE 31 OF HIS TESTIMONY, MR. GATES DISCUSSES THREE ALLEGED "SIGNIFICANT NEGATIVE IMPACTS" OF PROHIBITING LECS FROM ASSIGNING CUSTOMERS VIRTUAL NXX NUMBERS. PLEASE ADDRESS EACH ALLEGATION.

A. Mr. Gates alleges the following will occur if LECs are prohibited from assigning Virtual NXXs:

- ILECs would be able to evade their intercarrier compensation arrangements they have negotiated with ALECs;

- Contrary to one of the fundamental goals of the 1996 Act, such restrictions would have a negative impact on the competitive deployment of affordable dial-up Internet services; and
- ILECs would have a competitive advantage over ALECs in the ISP market.

Contrary to Mr. Gates' assertions, BellSouth is not proposing that ALECs be precluded from assigning Virtual NXXs. The real issue pertains to how calls to Virtual NXXs will be compensated. In response to Mr. Gates' first allegation, BellSouth would not be evading its reciprocal compensation obligations under the Act. The Act requires reciprocal compensation for the transportation and termination of local traffic. The traffic under discussion, as shown above, is <u>not</u> local.

As to Mr. Gates' second allegation, BellSouth's position has no impact on an ALEC's ability to serve ISPs. An ALEC is free to target and select customers, and to assign telephone numbers as it chooses. BellSouth's position is consistent with long-standing FCC precedent that calls which originate and terminate in <u>different</u> local calling areas are <u>not local</u> and, therefore, <u>are not</u> subject to reciprocal compensation.

Contrary to Mr. Gates' third allegation, BellSouth's position would not grant BellSouth any advantage in the ISP market. Due to the FCC's exemption of ISP-bound traffic from access charges, BellSouth is limited to charging its ISP customers the tariffed business local exchange rate. ALECs generally have more flexibility in their pricing.

Finally, nothing in the 1996 Act requires ILECs like BellSouth to subsidize the provision of an ALEC's service to ISPs (or to any other customers) by paying reciprocal compensation for non-local traffic. Thus, whether an ALEC assigns a Virtual NXX number to a florist or to an ISP, it simply is not entitled to reciprocal compensation when a BellSouth customer in a distant local calling area places a call to the florist or the ISP served by an ALEC.

Q. ON PAGE 32, MR. GATES SUGGESTS THAT BELLSOUTH IS ATTEMPTING TO RE-CLASSIFY LOCAL CALLS AS TOLL CALLS. IS THIS A VALID STATEMENT?

A. Absolutely not. To the contrary, ALECs are attempting to reclassify the nature of the call, from toll to local. An FX call or Virtual NXX call that crosses local calling area boundaries is a toll call, and it is not subject to reciprocal compensation. If the provider of the FX or Virtual NXX service chooses not to bill its customer for toll service, that is its choice; however, the manner in which the provider elects to bill its end users for the service does not change the nature of the call. An example of this is FX service. In this instance, the call originates and terminates in different local calling areas. While the originating party may be charged as if this is a local call, the call is a toll call, and the terminating party is paying for the toll call through FX charges.

Q. PLEASE EXPLAIN FURTHER WHY BELLSOUTH IS NOT CHANGING THE

DEFINITION OF LOCAL CALLS.

A. The FCC has defined what constitutes a local call that is subject to reciprocal compensation obligations. As set forth in 47 CFR §51.701(b)(1), "local telecommunications traffic" to which reciprocal compensation applies means:

> *Telecommunications traffic between a LEC and a telecommunications carrier other than a CMRS provider that originates and terminates within a local service area established by the state commission . . . .*

BellSouth's position in this proceeding is consistent with this definition. BellSouth, therefore, is not the party that is trying to change the FCC's definition of a local call. Instead, ALECs are trying to change this definition by asking the Commission to ignore the originating and terminating points of a call and consider only the telephone number the ALEC assigns to its customer.

Q. MR. GATES, AT PAGES 33-35, STATES THAT THE COSTS INCURRED BY BELLSOUTH DO NOT CHANGE BASED ON THE LOCATION OF THE ALEC'S CUSTOMERS. PLEASE COMMENT.

A. The issue in this proceeding is whether reciprocal compensation or access charges are due in the case of "Virtual NXX" traffic that originates in one local calling area and terminates in another local calling area. Reciprocal compensation covers the cost of transporting and terminating <u>local</u> calls, and, as I have explained, the FCC's rules clearly state that the originating and terminating points of a call determine whether or not a call is local. Whether reciprocal compensation or access charges are due, therefore, is determined by the designation of a particular call.

Clearly, when a BellSouth customer calls an ALEC customer in a different local calling area that simply is not a local call. Instead, it is a toll call to which access charges – and not reciprocal compensation charges – apply. ALECs are simply not entitled to reciprocal compensation for these calls.

Q. ON PAGE 34, MR. GATES STATES THAT NOT ONLY WOULD BELLSOUTH DOUBLE-RECOVER FOR CARRYNG SUCH TRAFFIC, BUT IT WOULD BE COMPENSATED FOR COSTS IT DOES NOT EVEN INCUR. IS THIS CORRECT?

A. Absolutely not. Local rates are designed to recover the costs of carrying local traffic. The traffic being addressed in this issue, however, is not local traffic. Instead, the traffic is long distance traffic because it originates in one local calling area and terminates in a different local calling area. Accordingly, BellSouth is originating long distance traffic in these instances, and BellSouth clearly incurs costs in originating this long distance traffic. As is the case when BellSouth originates any other long distance call, BellSouth is entitled to collect originating access charges when it originates this long distance traffic for another carrier.

Q. HOW IS BELLSOUTH COMPENSATED FOR THE COSTS INCURRED WHEN ONE OF ITS CUSTOMERS CALLS A PERSON LOCATED IN A

DIFFERENT LOCAL CALLING AREA?

A. When a BellSouth end user calls a person located outside of that end user's basic local calling area, BellSouth receives compensation in addition to the basic local rates it charges its customers. When BellSouth carries an intraLATA toll call, for instance, BellSouth collects toll charges from its customer who placed the call. When a BellSouth customer places an interLATA toll call, BellSouth collects originating access from the interexchange carrier ("IXC") transporting the call. When BellSouth carries an intraLATA toll call from a BellSouth end user to a BellSouth FX customer, BellSouth receives compensation for the FX service (including the toll component of that service) from its FX customer. Similarly, when BellSouth carries calls to a BellSouth customer with an 800 number, BellSouth receives compensation for the 800 service (including the toll component of that service) from its 800 service customer. In each of these cases, BellSouth is compensated from some source other than the local rates it charges its customers for placing local calls. That additional source may be BellSouth's end user customer (i.e., toll charges), another telecommunications provider such as an IXC (i.e., access charges), or an FX or 800 service subscriber (i.e., FX charges or 800 charges).

In effect, what ALECs are really asking the Commission to do here is to require BellSouth to originate a non-local call completely free of charge. To add insult to injury, ALECs are demanding that BellSouth actually pay, rather than be paid, for this service. The ALECs' position, therefore, ignores not only the FCC's definition of local calls but also the reality of the inter-carrier compensation mechanisms of reciprocal compensation and access.

Q. ON PAGE 34, MR. GATES ASSERTS THAT ACCESS CHARGES ARE NOT AN APPROPRIATE MEANS OF COST RECOVERY FOR THIS TRAFFIC. PLEASE COMMENT.

A. As I previously mentioned, the traffic addressed in this issue is long distance traffic because it originates in one local calling area and terminates in a different local calling area. Accordingly, BellSouth is originating long distance traffic in these instances, and BellSouth clearly incurs costs in originating this long distance traffic. As is the case when BellSouth originates any other long distance call, BellSouth is entitled to collect originating access charges when it originates this long distance traffic for an ALEC or any other carrier.

Q. ON PAGE 41, MR. GATES STATES THAT REASONS FOR TREATING VIRTUAL NXX TRAFFIC AS LOCAL TRAFFIC INCLUDE PROVIDING ISPS WITH A COST-EFFECTIVE WAY TO PROVIDE LOCAL DIAL-UP INTERNET SERVICE. PLEASE COMMENT.

A. Mr. Gates' statements highlight the fact that ALECs are not so much interested in flexible use of NXX codes as they are in obtaining reciprocal compensation for traffic which is not local traffic to subsidize its operations. Reciprocal compensation is designed to compensate a carrier for transporting and terminating a local call. Long distance calls have different compensation mechanisms that apply and would continue to apply in the cases we have been discussing. BellSouth is not attempting to restrict an ALEC's use of NXX codes. However, BellSouth does insist that such use of NXX codes not be allowed to disguise toll calls as local calls for the purpose of receiving reciprocal compensation.

In the FX example I described earlier, BellSouth charges the FX customer appropriate charges to cover BellSouth's costs. ALECs may do the same. For example, the rate elements of BellSouth's FX service include interexchange channel, interoffice channel, intercept arrangement and usage charges (See BellSouth General Subscriber Service Tariff, Section A9). When an ALEC assigns telephone numbers to a customer in a way that allows callers to make a long distance call to that customer but not be charged for a long distance call, the ALEC may recover its costs from the customer who is benefiting. The ALEC, however, may not try to recover those costs from BellSouth.

Likewise, in the 800 service example discussed previously in my testimony, the end user who dials the 800 number is charged for a local call to get to the 800 number. The customer subscribing to the 800 service, however, pays for the 800 service charges in lieu of the calling party paying toll usage charges. The customer benefiting from the service is the one who pays for the service, as should be the case with Virtual FX or Virtual NXX calls.

Q. ON PAGE 39, MR. GATES STATES THAT BELLSOUTH'S PROPOSAL WOULD ULTIMATELY VIOLATE THE 1996 ACT. DO YOU AGREE?

A. Certainly not. The 1996 Act and the FCC's rules require that reciprocal compensation be paid for termination of the originating carrier's traffic within the same local calling area (local calls). The 1996 Act does not require BellSouth to pay reciprocal compensation to an ALEC for termination of calls outside the local calling area (toll calls). ALECs are attempting to use the "Virtual NXX" fiction to disguise toll calls as local calls by its assignment of NPA/NXX's to customers outside the local calling area with which the NPA/NXX codes are associated. An ALEC can assign NPA/NXX codes as it chooses. An ALEC, however, cannot use the assignment of its NPA/NXX codes to generate reciprocal compensation payments for calls that originate and terminate in different local calling areas.

Issue 18: How should the policies established in this docket be implemented?

Q. WHAT IS BELLSOUTH'S POSITION ON THIS ISSUE?

A. The policies established in this proceeding will take effect after the Commission issues an effective order and would be implemented when existing interconnection agreements are properly amended to incorporate the ordered policies. The terms and conditions by which BellSouth provides UNEs and interconnection services to ALECs are governed by an approved interconnection agreement.

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes.

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