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ORIGINAL

December 1, 2000

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 (Section 251)

Dear Ms. Bayó:

Enclosed is an original and fifteen copies of BellSouth Telecommunications, Inc.'s Direct Testimony of Elizabeth Shiroishi and Direct Testimony of David Scollard 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,

E. Earl Edenfield Jr

E. Earl Edenfield, Jr.

(2E)

Enclosures

cc: All Parties of Record
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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 1st day of December, 2000 to the following:

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(22)

ORIGINAL

BELLSOUTH TELECOMMUNICATIONS, INC.

DIRECT TESTIMONY OF BETH SHIROISHI

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 000075-TP

DECEMBER 1, 2000

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

A. My name is Elizabeth R. A. Shiroishi. I am employed by BellSouth as Managing Director for Customer Markets – Wholesale Pricing Operations. My business address is 675 West Peachtree Street, Atlanta, Georgia 30375.

Q. PLEASE PROVIDE A BRIEF DESCRIPTION OF YOUR BACKGROUND AND EXPERIENCE.

A. I graduated from Agnes Scott College in Decatur, Georgia, in 1997, with a Bachelor of Arts Degree in Classical Languages and Literatures. I began employment with BellSouth in 1998 in the Interconnection Services Pricing Organization as a pricing analyst. I then moved to a position in product management, and now work as a Managing Director for Customer Markets – Wholesale Pricing Operations. In this position, I am responsible both for negotiating and for overseeing the negotiations of Interconnection Agreements, as well as Local Interconnection, Internet Service Provider ("ISP")/Enhanced

Service Provider ("ESP"), and Internet Protocol ("IP") issues.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. The purpose of my testimony is to present BellSouth's position on the issues raised in this docket.

Issue 1(a): Does the Commission have the jurisdiction to adopt an intercarrier compensation mechanism for delivery of ISP-bound traffic?

Issue 1(b): If so, does the Commission have the jurisdiction to adopt such an intercarrier compensation mechanism through a generic proceeding?

Q. DOES THE COMMISSION HAVE JURISDICTION OVER NON-LOCAL ISP-BOUND TRAFFIC?

A. No. Since ISP-bound traffic is an interstate access service and is predominately interstate in nature, such traffic is within the exclusive jurisdiction of the Federal Communications Commission ("FCC"). The determination of the appropriate intercarrier compensation for ISP-bound traffic is an issue to be decided (and will ultimately be decided by the FCC) as it is the subject of a pending rulemaking by the FCC

Q. HAVE THERE BEEN ANY COURT ORDERS WHICH AFFECT A STATE COMMISSION'S AUTHORITY TO ADDRESS AN INTER-CARRIER

COMPENSATION MECHANISM FOR ISP-BOUND TRAFFIC?

A. The D.C. Circuit Court's action had a substantial impact on whether states can address the issue of compensation for ISP-bound traffic in arbitration proceedings. The Declaratory Ruling (see *Declaratory Ruling, In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996: Inter-Carrier Compensation for ISP-Bound Traffic, CC Docket Nos. 96-98, 99-68* ("Declaratory Ruling"), released February 26, 1999) was the only order which purported to specifically authorize states to develop a compensation mechanism for ISP-bound traffic. Unlike the issue of the jurisdictional nature of the traffic, which is addressed in several other orders, no other order has conferred authority on the states to develop such a mechanism. Obviously, since the Declaratory Ruling is vacated, and it was the only order conferring authority to the state commissions, there now is no order conferring such authority. In fact, the Court pointed out that its having vacated the Commission's ruling leaves the incumbents "free to seek relief from state-authorized compensation that they believe to be wrongfully imposed." (D.C. Order at 9)

If the Commission determines that it has the authority to establish an intercarrier compensation mechanism for ISP-bound traffic (which it clearly does not), the Commission should exercise such jurisdiction through a generic proceeding so that all affected Parties can participate.

Q. HOW HAS THE JURISDICTION OF ISP-BOUND TRAFFIC BEEN

ADDRESSED BY THE FCC?

A. Throughout the evolution of the Internet, the FCC repeatedly has asserted that ISP-bound traffic is interstate. For instance, since 1983 the FCC has exempted ISPs from the payment of certain interstate access charges. The fact that the FCC created an exception to the application of usage sensitive interstate access charges to protect certain classes of customers, such as ISPs, makes it evident that the FCC considers such users as users of access services. Otherwise, such an exemption of access charges would not have been needed. *See MTS/WATS Market Structure Order,* 97 FCC 2d at 715.

Also, in the FCC's *Notice of Proposed Rulemaking,* In the Matter of Amendments to Part 69 of the Commission's Rules Relating to Enhanced Service Providers, CC Docket No. 87-215 ("1987 NPRM"), released July 17, 1987, in which the FCC proposed to lift the ESP access charge exemption, is clearly in keeping with the FCC's position on the interstate nature of ESP/ISP traffic. Paragraph 7 reads:

> *We are concerned that the charges currently paid by enhanced service providers do not contribute sufficiently to the costs of the exchange access facilities they use in offering their services to the public. As we have frequently emphasized in our various access charge orders, our ultimate objective is to establish a set of rules that provide for recovery of the costs of exchange access used in interstate service in a fair, reasonable, and efficient manner from all users of access service, regardless of their designation as carriers, enhanced service providers,*

or private customers. Enhanced service providers, like facilities-based interexchange carriers and resellers, use the local network to provide interstate services. To the extent that they are exempt from access charges, the other users of exchange access pay a disproportionate share of the costs of the local exchange that access charges are designed to cover. (emphases added)

The resulting order in Docket No. 87-215 (the "ESP Exemption Order"), released in 1988, is further evidence of the FCC's continued pattern of considering ISP-bound traffic to be access traffic, as it referred to "certain classes of exchange access users, including enhanced service providers" (emphasis added).

Q. HAS THE FCC REITERATED ITS POSITION REGARDING THE JURISDICTION OF ISP-BOUND TRAFFIC SINCE THE DECLARATORY RULING?

A. Yes. In its December 23, 1999 Order on Remand, an order that was not appealed, (see *Order on Remand In re: Deployment of Wireline Services Offering Advanced Telecommunications Capability, CC Docket Nos. 98-147*, ("Order on Remand"), the FCC stated at Paragraph 33:

As we have previously found in the Reciprocal Compensation Order, xDSL-based advanced services that are used to connect ISPs with their subscribers to facilitate Internet bound traffic typically constitute

exchange access service because the call initiated by the subscriber terminates at Internet websites located in other exchanges, states, or foreign countries.

Further, in the same Order on Remand, at Paragraph 35, the FCC states,

The issue we address here is whether xDSL-based services may constitute exchange access under the Act. This question arises primarily in the context of services provided to ISPs to facilitate their provision of Internet access services. Applying the definitions contained in section 3 of the Act, we conclude that the service provided by the local exchange carrier to the ISP is ordinarily exchange access service because it enables the ISP to transport the communication initiated by the end-user subscriber located in one exchange to its ultimate destination in another exchange, using both the services of the local exchange carrier and in the typical case the telephone toll service of the telecommunications carrier responsible for the interexchange transport.

Additionally, BellSouth's ADSL service offering was filed and approved, by the FCC, in BellSouth's Tariff FCC Number 1. This is further evidence that ISP-bound traffic is exchange access service.

Q. IS BELLSOUTH'S POSITION REGARDING JURISDICTION OF ISP-BOUND TRAFFIC CONSISTENT WITH THE FCC'S FINDINGS AND ORDERS?

A. Absolutely. BellSouth's position is supported by, and is consistent with, the FCC's findings and orders which state that, for jurisdictional purposes, traffic must be judged by its end-to end nature, and must not be judged by looking at individual components of a call. BellSouth's position is also consistent with the FCC's historical treatment of ISP traffic. Therefore, for purposes of determining jurisdiction for ISP-bound traffic, the originating location and the final termination must be looked at from an end-to-end basis. BellSouth's position is consistent with long-standing FCC precedent has been reaffirmed numerous times. For example, in the December 23, 1999 Order on Remand, Footnote 73, the FCC lists its previous decisions in 1988, 1992, 1995 and 1997 reaching the same conclusion about the end-to-end nature of ISP traffic.

Issue 2: Is delivery of ISP-bound traffic subject to compensation under Section 251 of the Telecommunications Act of 1996?

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

A. Reciprocal compensation is not applicable to ISP-bound traffic. Based on the Telecommunications Act of 1996 (the "Act") and the FCC's Local Competition First Report and Order issued August 8, 1996 ("Local Competition Order"), reciprocal compensation obligations under Section

251(b)(5) apply only to local traffic. ISP-bound traffic constitutes access service, which is clearly not local traffic. Payment of reciprocal compensation for ISP-bound traffic is inconsistent with the law and is not sound public policy.

Q. PLEASE EXPLAIN THE BASIS FOR RECIPROCAL COMPENSATION.

A. As I have previously stated, only local traffic is eligible for reciprocal compensation. Exhibit ERAS-1 to my testimony contains two diagrams. Both of these diagrams illustrate local calls between end users. Diagram A illustrates a typical local call where both ends of the call are handled by a single carrier's network which, in this example, is an ILEC's network. In this scenario, the ILEC receives a monthly fee from its end user to apply towards the cost of that local call. For that payment, the ILEC provides the end user with transport and termination of local calls throughout the local calling area. End users typically do not pay for calls terminated to them. Importantly, in this case, the end user is the ILEC's customer, which means that the end user pays the ILEC revenue for the service.

By comparison, Diagram B illustrates a typical local call that is handled by two carriers - one end of the call is handled by an ILEC, and an alternative local exchange carrier ("ALEC") handles the other end of the call. In this scenario, when the ILEC's end user makes a local call to the ALEC's end user, the ILEC's end user is paying the ILEC the same price for local exchange service as in Diagram A. The ILEC, however, is not the provider of the entire network

facilities used to transport and deliver the local call. The ALEC is providing part of the facilities and is incurring a cost. Since the end user is an ILEC customer, the ALEC has no one to charge for that cost. As previously noted, end users do not typically pay for local calls terminated to them, so the ALEC cannot be expected to charge its end user. While the ILEC is receiving the same revenues as shown in Diagram A, its costs are lower. Consequently, reciprocal compensation would be paid by the ILEC to compensate the ALEC for terminating that local call over its network. If the reciprocal compensation rate equals the ILEC's cost, the ILEC is indifferent to whether the ILEC or the ALEC completes the call.

Likewise, if an ALEC's end user completes a local call to an ILEC's end user, the ALEC receives the payment for local exchange service from the end user, and the ALEC pays the ILEC reciprocal compensation for the portion of the ILEC's facilities used to terminate the local call. In accordance with the Act, the purpose of reciprocal compensation is to ensure that each carrier involved in carrying a local call is compensated for its portion of that call.

Q. PLEASE EXPLAIN THE PROVISION OF SWITCHED ACCESS SERVICE.

A. Exhibit ERAS-2 attached to my testimony consists of two diagrams. Diagram C illustrates a typical access call originating on a LEC's network and delivered to an IXC's Point of Presence. As shown by this illustration, the LEC receives access charges from the IXC as compensation for use of the LEC's facilities to deliver the traffic to the IXC. The IXC bills the end user.

Diagram D is different from Diagram C in only one respect. The IXC has been replaced by an ISP. The network used to transport ISP-bound traffic is exactly the same network used to deliver traffic to IXCs. However, rather than through receipt of normal switched access charges, the LEC is compensated for the access service it provides to the ISP by the business rates it charges the ISP. The important point is that both IXCs and ISPs receive access service and, although they are charged different prices, the prices they pay are designed to cover the same costs. That cost is the full cost of providing service to them.

Q. DOES ISP TRAFFIC TERMINATE AT THE ISP?

A. Absolutely not. The call from an end user to the ISP only transits through the ISP's local point of presence; it does not terminate there. There is no interruption of the continuous transmission of signals between the end user and the host computers. This fact was confirmed by the FCC in the February 26, 1999 Declaratory Ruling. Paragraph 12 states:

> We conclude, as explained further below, that the communications at issue here do not terminate at the ISP's local server, as ALECs and ISPs contend, but continue to the ultimate destination or destinations, specifically at a Internet website that is often located in another state.

While the United States Court of Appeals for the District of Columbia Circuit vacated this order on March 24, 2000, the D.C. Circuit did not establish any principle of law, but rather -- as the Court itself said over and over -- simply

determined that the FCC had failed to provide a sufficient explanation for its conclusions. Furthermore, the Chief of the FCC's Common Carrier Bureau at the time the Declaratory Ruling was vacated stated publicly that he believed that the FCC can and will provide the requested clarification and reach the same conclusion that it has previously -- that is, that ISP-bound calls do not terminate locally. See TR Daily, Strickling Believes FCC Can Justify Recip. Comp. Ruling In Face Of Remand, March 24, 2000 (stating that the Chief of the FCC's Common Carrier Bureau "still believes calls to ISPs are interstate in nature and that some fine tuning and further explanation should satisfy the court that the agency's view is correct").

The FCC's Order on Remand , also emphasizes that ISP-bound traffic does not terminate at the ISP. In paragraph 16 the FCC states:

> With respect to xDSL-based advanced services used to connect Internet Service Providers (ISPs) with their dial-in subscribers, the Commission has determined that such traffic does not terminate at the ISP's local server, but instead terminates at Internet websites that are often located in other exchanges, states or even foreign countries. Consistent with this determination, we conclude that typically ISP-bound traffic does not originate and terminate within an exchange and, therefore, does not constitute telephone exchange service within the meaning of the Act. As explained more fully below, such traffic is properly classified as "exchange access."

This Order clearly states that the traffic does NOT terminate at the ISP, and this is not qualified by any type distinction which would limit the meaning of that conclusion. In fact, the Order clearly goes on to say that ISP-bound traffic is not telephone exchange traffic, but exchange access traffic.

Q. HOW DOES THE TERMINATION OF AN ISP-BOUND CALL AFFECT WHETHER OR NOT RECIPROCAL COMPENSATION IS DUE FOR SUCH TRAFFIC?

A. Reciprocal compensation applies only when local traffic is originated on one party's network and terminated on another party's network. One of the Act's basic interconnection rules is contained in 47 U.S.C. § 251(b)(5). That provision requires all local exchange carriers "to establish reciprocal compensation arrangements for the transport and termination of telecommunications." Section 251(b)(5)'s reciprocal compensation duty arises, however, only in the case of local calls. In fact, in its August 1996 Local Interconnection Order (CC Docket No. 96-98), paragraph 1034, the FCC made it perfectly clear that reciprocal compensation rules do not apply to interstate or interLATA traffic such as interexchange traffic:

> *We conclude that Section 251(b)(5), reciprocal compensation obligation, should apply only to traffic that originates and terminates within a local area assigned in the following paragraph. We find that reciprocal compensation provisions of Section 251(b)(5) for transport*

and termination of traffic do not apply to the transport and termination of interstate or intrastate interexchange traffic.

The FCC's Order and the Act rely upon call termination in determining the applicability of reciprocal compensation. Since the FCC has consistently held that ISP-bound traffic does not terminate at the ISP server, reciprocal compensation is not owed for ISP-bound traffic. If the Commission were to determine that the call terminates at the ISP server, the Commission must consider the issue of ISP servers located outside the local calling area but served by a locally dialed number. Such an arrangement can be achieved by assigning an NPA/NXX to location outside of the rate center to which that NPA/NXX is assigned.

Q. IS IT REASONABLE TO CONCLUDE THAT RECIPROCAL COMPENSATION APPLIES TO ISP-BOUND TRAFFIC?

A. No. There is no support for the position that Congress intended that the Act create a revenue windfall for ALECs; receiving reciprocal compensation for ISP-bound traffic cannot be viewed as anything but a revenue windfall. The huge dollar amounts being billed by ALECs to ILECs do not represent revenues that ALECs have earned as a result of providing competitive local service to end users. Nor do these dollar amounts represent cost recovery for completing local calls originated by BellSouth's end users. To the contrary, these revenues represent new money for ALECs resulting from an inappropriate application of reciprocal compensation to interstate traffic.

However, there are no new revenues or cost reductions for BellSouth to fund these excessive payments of reciprocal compensation that ALECs are claiming is owed.

Q. SINCE ISP-BOUND TRAFFIC IS NOT LOCAL TRAFFIC SUBJECT TO 251 OF THE ACT, WHAT IS IT?

A. ISP-bound traffic is exchange access traffic (commonly referred to as long-distance traffic), which is illustrated in Exhibit ERAS-2. However, in an attempt to help this "fledgling" industry, the FCC created an exception to the application of usage sensitive interstate access charges. This exception is commonly referred to as the "access charge exemption." In every order addressing this issue, the FCC has reached the same conclusion concerning the interstate nature of ISP-bound traffic.

Issue 3: What actions should the Commission take, if any, with respect to establishing an appropriate compensation mechanism for ISP-bound traffic in light of current decisions and activities of the courts and FCC?

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

A. It is not appropriate for the Commission to take any action on this issue because intercarrier compensation for ISP-bound traffic is not an obligation under Section 251 of the Act. At a minimum, the Commission should wait until the FCC issues an order before spending resources developing a plan that

may be rendered moot by ultimate FCC decision or which may overturned by a court or jurisdictional grounds. The Commission should determine that ISP-bound traffic is not local traffic, and therefore no reciprocal compensation is due.

Issue 4: What policy considerations should inform the Commission's decision in this docket?

Q. WHAT POLICY ISSUES SHOULD THE COMMISSION CONSIDER IN DETERMINING THE COMPENSATION MECHANISM FOR ISP-BOUND TRAFFIC?

A. In making a decision on the compensation mechanism for ISP-bound traffic, the Commission must consider the implications that this decision will have. Specifically, the Commission must consider how this decision will affect competitive entry decisions by ALECs, cost recovery and the economics of the cost causation, the impact on residential customers, and the continued development of competition.

Q. IF RECIPROCAL COMPENSATION IS AUTHORIZED FOR ISP-BOUND TRAFFIC, HOW WILL THIS AFFECT ALECS' COMPETITIVE ENTRY DECISIONS?

A. As I have stated previously, the payment of reciprocal compensation for ISP-bound traffic is nothing more than a revenue windfall for ALECs. If the

Commission finds that reciprocal compensation should be paid for ISP-bound traffic, ALECs have a major incentive to serve ISPs rather than true local customers. In fact, the payment of reciprocal compensation for ISP-bound traffic actually discourages an ALEC from serving the primary type of customer for which the Act intended to create competition – the residential customer. Assume that an ALEC is choosing markets to target and is looking at a residential apartment complex in Miami. In order to offer the resident a competitive local phone rate, the ALEC has decided to charge $12 per month per residential phone line for basic local calling, plus any additional calling features the resident orders. Further assume that the ALEC canvases residents of the complex and learns that the average resident spends approximately 2 hours a day using a dial-up connection to the Internet. If the Commission or FCC rules that reciprocal compensation is due for ISP traffic, the ALEC would also need to consider that it will have to pay $7.20 per month (30 days x 120 minutes x $.002/mou) of the $12 in revenue it receives to the LEC serving the ISP the resident chooses to use. This cost of $7.20 is incurred by the ALEC in addition to the cost of providing the service of the residential loop and port. Given these economics, the ALEC certainly has no incentive to serve the residential customer.

Q. IF RECIPROCAL COMPENSATION FOR ISP-BOUND TRAFFIC IS NOT AUTHORIZED, WILL ALECs BE UNCOMPENSATED FOR THE COSTS THEY INCUR TO PROVIDE SERVICES TO ISPS?

A. No. The ALECS' ISP customers compensate the ALECs for services that are

provided just like an ILEC's ISP customer compensates the ILEC. The ALECs' request for reciprocal compensation on ISP-bound traffic simply provides ALECs with unearned windfall revenues and further increases the unreimbursed cost of the ILEC.

Q. WHY DOES IT NOT MAKE SENSE FOR AN ILEC TO COMPENSATE AN ALEC FOR ISP-BOUND TRAFFIC ORIGINATED BY AN ILEC'S LOCAL SERVICE CUSTOMER?

A. To understand why an ILEC should not be forced to compensate an ALEC for ISP-bound traffic delivered to an Internet website through an ALEC's ISP customer, one must consider which party causes the costs to be incurred. An end user accessing the Internet is a customer of the ISP for that service. The ISP bills the customer separately and when the customer has a problem they call the ISP. The fact that the end user is the ILEC's customer for local service does not change the fact that the same end user is the ISP's customer for access to the Internet. The end user is no more the ILEC's customer on Internet calls than it is the ILEC's customer for interLATA long distance calls.

Q. WERE LOCAL SERVICE RATES IN FLORIDA STRUCTURED TO COVER THE COSTS OF NON-LOCAL TRAFFIC?

A. No. The local exchange rates paid by end user customers were never intended to recover costs associated with providing access service and were established long before the Internet became popular. Local exchange rates do not take into

account and compensate for non-local traffic such as Internet-bound traffic. Internet-bound traffic characteristics were never considered when local rates were established.

Issue 5: Is the Commission required to set a cost-based mechanism for delivery of ISP-bound traffic?

Q. IS THE COMMISSION REQUIRED TO SET ANY COMPENSATION MECHANISM FOR THE DELIVERY OF ISP-BOUND TRAFFIC?

A. No. As I discussed under Issue Number 1, State Commissions are only required and authorized to establish a compensation mechanism for local traffic pursuant to Section 251 of the Act. The obligations of Section 251 of Act do not extend to non-local ISP-bound traffic.

Q. IF THE COMMISSION DECIDES TO SET A COMPENSATION MECHANISM FOR THE DELIVERY OF ISP-BOUND TRAFFIC, MUST THE MECHANISM BE COST-BASED?

A. The FCC has established no parameters or requirements for a compensation mechanism for the delivery of ISP-bound traffic. In fact, the exemption of access charges for ESPs and ISPs is the only established compensation scheme for such users of access service. As I discussed above, the 251 obligation for cost-based rates does not extend to ISP-bound traffic. However, for policy reasons discussed in Issue Number 4, it is BellSouth's position that if the

Commission were to establish a compensation mechanism for ISP-bound traffic other than bill and keep, it should be cost-based. Further, it should be based on the cost actually incurred for the delivery of ISP-bound traffic, NOT on the cost of terminating a local call. A discussion of these costs differences can be found in Issue Number 6.

Issue 6: What factors should the Commission consider in setting the compensation mechanisms for delivery of ISP-bound traffic?

Q. WHAT ARE THE FACTORS THE COMMISSION SHOULD CONSIDER IN SETTING THE COMPENSATION MECHANISM FOR DELIVERY OF ISP-BOUND TRAFFIC?

A. Although any action by this Commission to set a compensation mechanism for ISP-bound traffic is not appropriate for the reasons I discussed earlier in my testimony, if the Commission wishes to establish an interim intercarrier compensation mechanism for such traffic the Commission must consider, first and foremost, the regulatory history and rulings surrounding ISP-bound traffic. ISP-bound traffic is not local traffic, but instead is interstate access traffic that has been exempted from access charges for policy reasons. Given that the FCC, who has jurisdiction over this traffic, has set no other intercarrier compensation mechanism for ISP-bound traffic, the only option for a compensation mechanism is bill and keep. The Commission could direct the parties to implement a bill and keep arrangement as the intercarrier compensation mechanism for ISP-bound traffic until such time as the FCC's

rulemaking on intercarrier compensation is completed. By definition, a bill and keep arrangement is a mechanism in which neither of the two interconnecting carriers would charge the other for ISP-bound traffic that originates on the other carrier's network.

It is important to remember that the ALEC is being compensated by the ISP for the service it provides the ISP, and the ISP is being compensated by the end user for the service it provides the end user. Thus, bill and keep does not leave the ISP or the ALEC uncompensated for the services it provides. Additionally, implementation of a bill and keep arrangement would remove any uncertainty surrounding application of the FCC's mechanism as a result of the current rulemaking proceeding.

Q CAN THE COMMISSION USE BILL AND KEEP AS AN INTERIM MECHANISM?

A. If the Commission can order any mechanism at all, it can be bill and keep. The FCC did not specify the type of interim mechanism a state could use. Of course, as I previously discussed, whether the FCC can authorize states to apply any mechanism is subject to court review.

Q. WHY MIGHT A BILL AND KEEP ARRANGEMENT BE AN APPROPRIATE COMPENSATION MECHANISM?

A. Under bill and keep, ALECs have no greater incentive to serve customers that terminate traffic than customers that originate traffic. The business decision of ALECs would be based on the dictates of the marketplace, as the Act intended, and not on potential windfall opportunities. The disincentive to serve residential customers caused by the risk of having to pay significant amounts of reciprocal compensation is eliminated.

Q HOW DOES A BILL AND KEEP ARRANGEMENT FOSTER EFFICIENT USE OF THE NETWORK AND DEPLOYMENT OF ADVANCED SERVICES?

A. Using the circuit-switched network is an inefficient method of carrying data. However, under a regime where reciprocal compensation is owed for circuit-switched ISP-bound traffic, the ALEC serving the ISP has an incentive to generate such circuit-switched, dial-up ISP minutes. In fact, the ALEC serving the ISP has a disincentive to provide Internet service in a more advanced and efficient manner. In fact, the payment of reciprocal compensation for ISP-bound traffic discourages the deployment of any technology that does not generate reciprocal compensation. Bill and keep eliminates this disincentive and replaces it with an incentive to utilize efficient, advanced technologies in order to compete for customers.

Q. IF THE COMMISSION SHOULD DECIDE TO SET A COMPENSATION MECHANISM OTHER THAN BILL AND KEEP FOR ISP-BOUND

TRAFFIC, WHAT FACTORS SHOULD BE CONSIDERED IN SETTING SUCH A MECHANISM?

A. As I have stated, BellSouth's position is that bill and keep is the appropriate compensation mechanism for ISP-bound traffic. If the Commission decides to look further into establishing a compensation mechanism, it must first explore what costs are left unrecovered in an ISP-bound call. As I have previously stated, the ALEC is compensated by the ISP and the ISP is compensated by the end-user customer. As such, there are no uncompensated costs to be recovered.

If this Commission considers a per minute of use ("MOU") compensation arrangement, at a minimum it should consider the characteristics of ISP-bound calls as distinguished from local calls. Some such characteristics include:

- Call length
- Cost of network equipment

Q. DO THE LOCAL INTERCONNECTION RATES BELLSOUTH PROPOSED IN THE GENERIC UNE DOCKET ACCURATELY REFLECT THE COST OF ISP-BOUND TRAFFIC?

A. No. The elements that are applicable to local interconnection when an ALEC orders an unbundled UNE port or the loop/port combination from BellSouth are end office switching, tandem switching and common transport. These same elements are applicable to reciprocal compensation for local traffic.

BellSouth has always maintained that the cost studies it provided the Commission for these elements could only be used to establish rates for interconnection and reciprocal compensation for local traffic within the local calling area. Therefore, when BellSouth conducted the cost studies for these elements, it did not consider a mix of local calls along with non-local, long-duration ISP-bound calls when arriving at the average length of a call. Let me explain why the average call length is important to the issue at hand.

Switching costs have two major components – call set-up costs and call duration costs. Call set-up costs occur irrespective of how long the call actually lasts. Conversely, call duration costs are specifically related to how long the call actually lasts. On average, a local call is approximately three minutes long. Obviously, the call duration for an Internet call is substantially longer than for a local call.

BellSouth provides this example simply to explain that, if reciprocal compensation is, as an interim measure, applied to ISP-bound traffic, the existing per minute rates for local switching, as well as the proposed rates recently filed with the Commission for local switching would greatly overstate the amount of compensation.

Q. HOW DOES CALL LENGTH FOR AN INTERNET CALL DIFFER FROM CALL LENGTH FOR A LOCAL CALL?

A. As discussed above, a local call typically lasts about three minutes. According

to Bellcore's 1996 report, *"Impacts of Internet Traffic on LEC Networks and Switching Systems,"* the typical call duration for an Internet-bound call is approximately 20 minutes. In a more recent Nielson/NetRatings report, for the month of October 2000, 91.1 million persons out of 150 million persons who have access to the Internet from their homes actually surfed the Internet.[1] The average time spent surfing the Net was almost 32 minutes per individual session, with an average of 19 sessions per month.

Q. DO ALECS SERVING ISPS GENERALLY USE THE SAME TYPE OF EQUIPMENT AS IS USED FOR TERMINATING LOCAL TRAFFIC?

A. No. The costs for traditional reciprocal compensation as discussed above take into account conventional switching equipment used in an ILEC's network for conventional voice traffic. With new technologies, a LEC can deploy scaled-down switches, often referred to as "softswitches." These switches do not have all the features and functionalities of a traditional switch, but are instead designed exclusively to funnel dial-up traffic to ISPs. The cost of these "softswitches" is dramatically less than conventional switches. Examples include the Nortel CVX 1800 and Level 3's network. Level 3 boasts that by using Cisco routers for data and Lucent softswitches for voice, it expects to "reap capital savings between 40% and 60%, and operational savings 'that may be even greater.'"[2] This is one example of a cost differential that must be taken

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[1] Nielson/NetRatings, "Average Web Usage, Month of October, 2000, U.S.", http://209.249.142.27/nnpm/owa/Nrpublicreports.usagemonthly

[2] Peter Lambert and Paul Bernier, "Level 3 Goes Soft – Lucent softswitch Investment Expected to Yield Huge Saving," *X-Change,* August, 1999 at Paragraph 8 (available at http://www.x-changemag.com/articles/981spot.html)

into account if the Commission were to find it necessary to establish a unique rate for intercarrier compensation for ISP-bound traffic.

Issue 7: Should intercarrier compensation for delivery of ISP-bound traffic be limited to carrier and ISP arrangements involving circuit-switched technologies?

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

A. Intercarrier compensation for delivery of ISP-bound traffic should be limited to carrier and ISP arrangements involving circuit-switched technologies (which I have also referred to as "dial-up" throughout this testimony). Non-circuit-switched connections are generally not disputed with respect to reciprocal compensation standpoint since no switching costs are incurred and, thus there is no switching compensation at issue.

Issue 8: Should ISP-bound traffic be separated from non-ISP bound traffic for the purposes of assessing any reciprocal compensation payments? If so, how?

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

A. To the extent the Commission establishes a compensation mechanism for the delivery of ISP-bound traffic, then ISP-bound traffic must be separated from non-ISP bound traffic. Since reciprocal compensation only applies to local traffic subject to 251 of the Act and not to ISP-bound traffic, such traffic must be separated. Mr. Scollard will address a process by which this can be done.

Issue 9: Should the Commission establish compensation mechanisms for delivery of ISP-bound traffic to be used in the absence of the parties reaching an agreement or negotiating a compensation mechanism? If so, what should be the mechanism?

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

A. For the reasons discussed in my testimony, the Commission should not establish a compensation mechanism for ISP-bound traffic. Again, ISP-bound traffic is access service, and the determination of the appropriate intercarrier compensation for ISP-bound traffic is an issue to be decided by the FCC. However, if the Commission decides to establish a compensation mechanism for delivery of ISP-bound traffic, such mechanism should only be applicable in the absence of the parties reaching an agreement or negotiating a compensation arrangement mechanism. Further, as I discussed in issue number 6, the compensation arrangement should be a bill and keep mechanism.

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

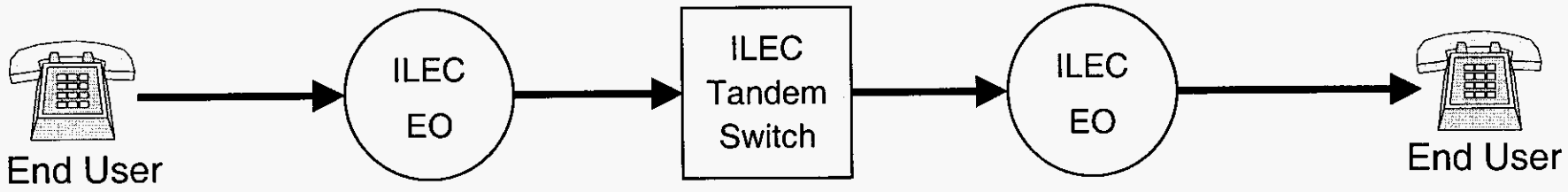
A. Yes.

Reciprocal Compensation

- **ILEC receives monthly fee from its end user to apply towards the cost of terminating local calls**

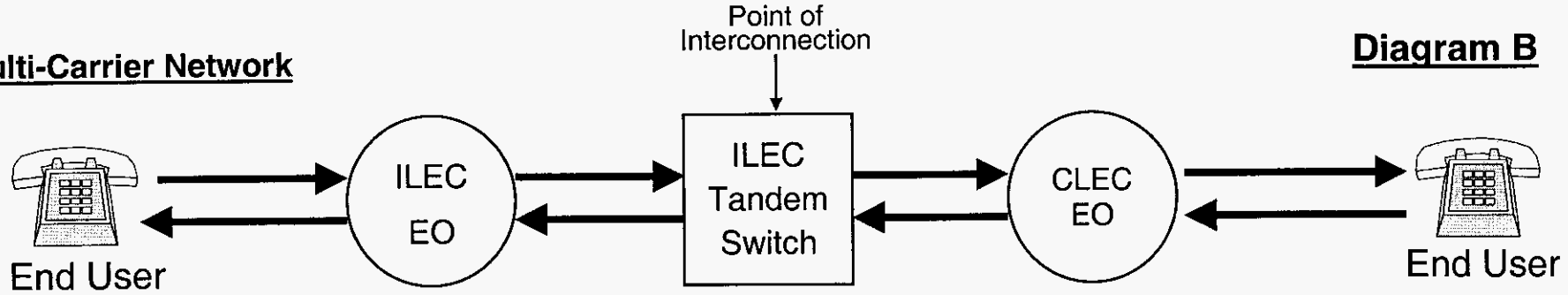
Single Carrier Network

Diagram A



Multi-Carrier Network

Diagram B



Call Flow

ILEC pays CLEC
Reciprocal Compensation

Call Flow

CLEC pays ILEC
Reciprocal Compensation

Access Service for IXC-Bound and ISP-Bound Traffic Involving Single Carrier Network

Diagram C

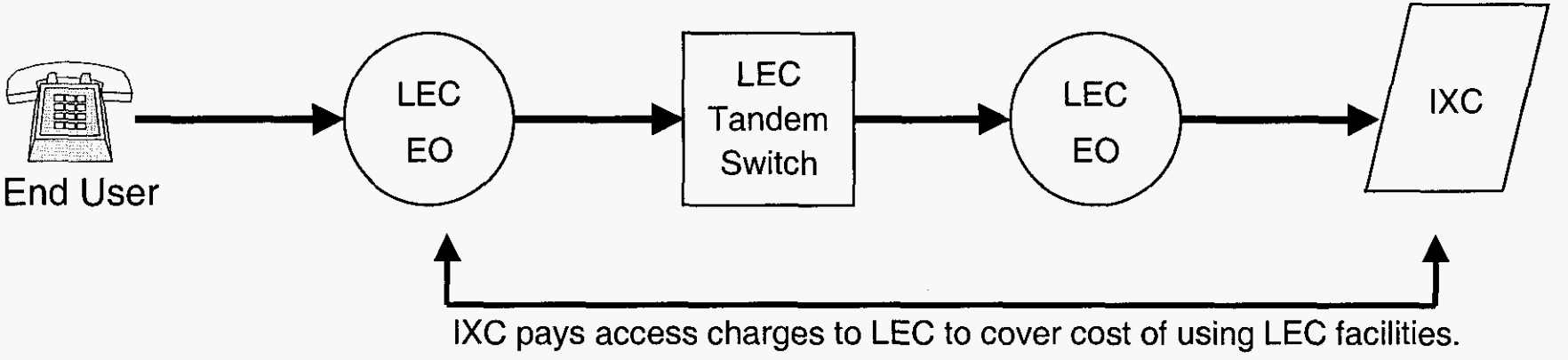


Diagram D