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ORIGINAL

March 14, 2000

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RECORDS AND REPORTING

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

Re: Docket No. 990874-TP (US LEC Complaint)

Dear Ms. Bayó:

Enclosed is an original and fifteen copies of BellSouth Telecommunications Inc.'s Responses and Objections to US LEC of Florida Inc's First Request for Production of Documents, dated February 11, 2000, which we ask that you file in the captioned docket. The non-proprietary documents were served on US LEC yesterday via hand delivery.

Copies were served to the parties shown on the attached Certificate of Service on Friday.

Sincerely,

*Bennett L. Ross*  
Bennett L. Ross

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

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APP \_\_\_\_\_  
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FPSC-RECORDS/REPORTING

**CERTIFICATE OF SERVICE**  
**Docket No. 990874-TP (US LEC Complaint)**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via

U.S. Mail this 14th day of March, 2000 to the following:

Donna Clemons  
Staff Counsel  
Florida Public Service  
Commission  
Division of Legal Services  
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Bennett L. Ross

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Complaint of US LEC of Florida, Inc. against ) Docket No. 990874-TP  
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 )  
\_\_\_\_\_ ) Filed: March 14, 2000

**RESPONSES AND OBJECTIONS OF**  
**BELLSOUTH TELECOMMUNICATIONS, INC.**  
**TO US LEC's FIRST REQUEST FOR**  
**PRODUCTION OF DOCUMENTS**

BellSouth Telecommunications, Inc., ("BellSouth") pursuant to Rule 28-106.206, *Florida Administrative Code*, and Rules 1.340, 1.350 and 1.280, *Florida Rules of Civil Procedure*, files the following Responses and Objections to the First Request for Production of Documents served by US LEC of Florida, Inc. ("US LEC") on February 11, 2000.

**GENERAL OBJECTIONS**

1. BellSouth objects to the requests for production of documents to the extent they seek to impose an obligation on BellSouth to respond on behalf of subsidiaries, affiliates, or other persons that are not parties to this case on the grounds that such requests are overly broad, unduly burdensome, oppressive, and not permitted by applicable discovery rules.

2. BellSouth objects to the requests for production of documents to the extent they are intended to apply to matters other than Florida intrastate operations subject to the jurisdiction of the Commission. BellSouth objects to

such requests for production of documents as being irrelevant, overly broad, unduly burdensome, and oppressive.

3. BellSouth objects to each and every request for production of documents and instruction to the extent that such request for production of documents or instruction calls for information which is exempt from discovery by virtue of the attorney-client privilege, work product privilege, or other applicable privilege.

4. BellSouth objects to each and every request for request for production of documents insofar as the request for production of documents is vague, ambiguous, overly broad, imprecise, or utilizes terms that are subject to multiple interpretations but are not properly defined or explained for purposes of these requests. Any answers provided by BellSouth in response to these requests for production of documents will be provided subject to, and without waiver of, the foregoing objection.

5. BellSouth objects to each and every request for production of documents insofar as the request for production of documents is not reasonably calculated to lead to the discovery of admissible evidence and is not relevant to the subject matter of this action. BellSouth will attempt to note in its responses each instance where this objection applies.

6. BellSouth objects to providing information to the extent that such information is already in the public record before the Commission.

7. BellSouth objects to each and every request for production of documents to the extent that the information requested constitutes "trade

secrets” which are privileged pursuant to §90.506, *Florida Statutes*. BellSouth also objects to each and every request for production of documents that would require the disclosure of customer specific information, the disclosure of which is prohibited by §364.24, *Florida Statutes*. To the extent that US LEC requests proprietary information that is not subject to the “trade secrets” privilege or to §364.24, BellSouth will make such information available to US LEC at a mutually agreeable time and place upon the execution of a confidentiality agreement, or subject to a Request for Confidential Classification.

8. BellSouth objects to US LEC’s *discovery requests, instructions and definitions*, insofar as they seek to impose obligations on BellSouth that exceed the requirements of the *Florida Rules of Civil Procedure or Florida Law*.

9. BellSouth objects to each and every request for production of documents, insofar as any of them is unduly burdensome, expensive, oppressive, or excessively time consuming as written.

10. BellSouth is a large corporation with employees located in many different locations in Florida and in other states. In the course of its business, BellSouth creates countless documents that are not subject to Commission or FCC retention of records requirements. These documents are kept in numerous locations that are frequently moved from site to site as employees change jobs or as the business is reorganized. Therefore, it is possible that not every document has been identified in response to these requests for production of documents. BellSouth will conduct a search of those files that are reasonably expected to contain the requested information. To the extent that the requests for production

of documents purport to require more, BellSouth objects on the grounds that compliance would impose an undue burden or expense.

**SPECIFIC RESPONSES AND OBJECTIONS TO REQUEST FOR  
PRODUCTION OF DOCUMENTS**

**REQUEST NO. 1:** Please produce all documents which reflect, refer or relate in any way to the document, "CLEC Policy – Unintended Consequences," dated 11/14/97, attached hereto as Exhibit A, and all documents which reflect, refer or relate in any way to the subject matter of said document.

**RESPONSE:** BellSouth has no responsive documents.

**REQUEST NO. 2:** Please produce all documents which reflect, refer to relate to August 12, 1997 memo from Ernest Bush to CLECs and all documents which reflect, refer or relate to the decision to send that memo.

**RESPONSE:** BellSouth objects to this Request on grounds that it is overly broad and unduly burdensome to the extent it seeks every document that may "reflect, refer, or relate to the decision" to send the August 12, 1997 memo from Ernest Bush. BellSouth also objects to this Request to the extent it seeks the production of public document or documents protected by the attorney-client privilege or work product doctrine. Subject to, and without waiving the foregoing objections, see BellSouth's response to US LEC's 1<sup>st</sup> Request for Production, Item No. 3.

**REQUEST NO. 3:** Please produce all documents which reflect, refer or relate to any discussions held by or within the group, committee, entity or project known as Project Harmonize pertaining to the subject of reciprocal compensation for ESP traffic or the payment of reciprocal compensation to CLECs.

**RESPONSE:** BellSouth objects to this Request on grounds that it is overly broad and unduly burdensome to the extent it requests every document prepared by any individual member or participant

of Harmonize on the issue of ISP-bound traffic. BellSouth also objects on grounds that such documents are not relevant to any issue in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence. Furthermore, BellSouth also objects to this Request to the extent it seeks the production of confidential documents or documents protected by the attorney-client privilege or the work product doctrine. Subject to and without waiving these objections, BellSouth will produce non-privileged documents responsive to this request subject to the protective agreement executed by the parties.

**REQUEST NO. 4: Please produce all documents which reflect, refer or relate to any and all discussions within BellSouth on the subject of reciprocal compensation for ESP traffic which occurred during the period January 1, 1995 through and including the present.**

**RESPONSE:** BellSouth objects to this Request on grounds that it is overly broad and unduly burdensome to the extent it seeks every document generated by any employee at BellSouth on the subject of ISP-bound traffic for the past five years. BellSouth also objects on grounds that such documents are not relevant to any issue in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence. BellSouth also objects to this Request to the extent it seeks the production of documents protected by the attorney-client privilege or the work product doctrine.

**REQUEST NO. 5: All documents which reflect, refer or pertain to any efforts BellSouth has made to meter traffic to ESPs, or otherwise segregate such traffic from other traffic.**

**RESPONSE:** The following documents are responsive to this request and are being produced subject to the protective agreement executed by the parties.

- 1) CRIS / CABS Work Request Submitted June 16, 1997 detailing the requirements which were developed to identify and drop from billing ISP traffic.
- 2) E-Mail dated September 11, 1997 from Sheri Irvin, Specialist – BBI Wholesale Billing, describing requirements for reports for dropped ISP usage.

- 3) E-Mail Message from Pinky Reichert dated October 7, 1997 addressing issues with ISP process.
- 4) E-Mail Message Dated October 24, 1997 from Susan Claytor, Manager – BBI Wholesale Billing describing on-going efforts to refine the ISP process.
- 5) CRIS / CABS Work Request Submitted November 5, 1997 detailing the requirements to provide reports of dropped ISP traffic.
- 6) E-Mail Message from Bob Cunningham, Manager – Network and Carrier Services dated December 16, 1997 containing the CRIS / CABS Work Request Submitted December 12, 1997 detailing the requirements to change the manner in which usage records for ISP traffic are stored.
- 7) E-Mail Message from Bob Cunningham, Manager – Network and Carrier Services dated December 16, 1997 containing the CRIS / CABS Work Request Submitted December 16, 1997 detailing the requirements to change the manner in which 800 traffic terminating to ISP numbers is treated.
- 8) Letter from Dave Hollett, Senior Director – BBI Wholesale Billing dated March 5, 1998 describing implementation of billing changes to support ISP orders in North Carolina and Florida
- 9) Implementation Guide dated September 8, 1998 highlighting the changes which were implemented in CABS to identify ISP usage on ALEC CABS bills.
- 10) An undated spreadsheet containing the test scripts used to verify that the CABS changes implemented to identify ISP usage on ALEC bills was installed correctly.
- 11) Georgia warehouse project documents

**REQUEST NO. 6:**

- a. **Please produce all documents reflecting the formation or creation of Project Encore and its goals, purpose and objectives.**
- b. **Please produce all documents reflecting all actions, meetings, discussions and/or communications involving Project Encore which related, referred or pertained to the issue of the payment or non-payment of reciprocal compensation for traffic bound for ESPs.**



RESPONSE: BellSouth objects to this Request on grounds that it is overly broad and unduly burdensome to the extent it seeks every document concerning Project ENCORE. BellSouth also objects on grounds that such documents are not relevant to any issue in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence. BellSouth also objects to this Request to the extent it seeks the production of documents protected by the attorney-client privilege or the work product doctrine. Subject to this objection, and without waiving this objection, BellSouth is continuing to review its files to locate any documents that may exist that are responsive to this request.

**REQUEST NO. 7: Please produce all documents which reflect, refer or pertain to any studies, tests, analyses, reports or other efforts you have undertaken to determine the accuracy of any mechanism in place for metering or otherwise segregating ESP traffic from other traffic.**

RESPONSE: See BellSouth's Response to US LEC's 1<sup>st</sup> Request for Production, Item No. 5.

**REQUEST NO. 8: Please produce all documents which reflect refer or pertain to the minutes of use, as recorded by BellSouth, for which US LEC has terminated traffic in Florida from BellSouth customers to ESPs, pursuant to all interconnection agreements between BellSouth and US LEC, from the date of the first such agreement to the present.**

RESPONSE: BellSouth objects to this Request to the extent that it suggests that calls from BellSouth customers are "terminated" to ISPs served by US LEC. BellSouth also objects to this request on grounds that it is overly broad and unduly burdensome. Subject to and without waiving the foregoing objections, responsive documents are being produced.

**REQUEST NO. 9: Please produce all documents which reflect, refer or pertain to the minutes of use, as recorded by BellSouth for which BellSouth has terminated traffic in Florida from US LEC customers to ESPs served by BellSouth pursuant to all Interconnection Agreements between**

**BellSouth and US LEC, from the date of the first such agreement to the present.**

**RESPONSE:** BellSouth objects to this Request to the extent that it suggests that calls from US LEC customers are "terminated" to ISPs served by BellSouth. BellSouth also objects to this request on grounds that it is overly broad and unduly burdensome and the documents concerning minutes of use from US LEC to BellSouth are not relevant to any issue in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections, responsive documents are being produced.

**REQUEST NO. 10:** Please produce all documents which reflect, refer or pertain to BellSouth's withholding payment for all or part of any US LEC invoices for reciprocal compensation from the first such invoice to the present time.

**RESPONSE:** Responsive documents are being produced.

**REQUEST NO. 11:** Please produce all documents which reflect, refer or pertain to any cost studies prepared by or on behalf of BellSouth demonstrating the cost differences, if any, between transporting and terminating ESP-bound traffic and other types of local traffic on BellSouth's network or any other network.

**RESPONSE:** See BellSouth's Response to US LEC's First Interrogatories, Item No. 28.

**REQUEST NO. 12:** All documents which reflect, refer or pertain to any statements you made that you intended to exclude ESP traffic from your reciprocal compensation obligations:

- a. to US LEC during the negotiations leading to the November 1996 Agreement;
- b. to ALEC during the negotiations leading to the ALEC Agreement; or
- c. to Intermedia during the negotiations leading to the Intermedia Agreement.

RESPONSE: No such documents exist. See BellSouth's Response to US LEC's 1<sup>st</sup> Interrogatories, Item No. 25.

**REQUEST NO. 13: Please produce all documents which reflect, refer or relate to any decision by BellSouth not to pay reciprocal compensation to US LEC for ESP traffic or any other traffic.**

RESPONSE: Responsive documents are being produced.

**REQUEST NO. 14: Please produce all documents which reflect, refer or relate to any communications between BellSouth and any other person or entity concerning the payment or non-payment of any reciprocal compensation invoiced by US LEC for services rendered in Florida.**

RESPONSE: See documents provided in response to US LEC's 1<sup>st</sup> Request for Production of Documents, Item No. 8.

**REQUEST NO. 15: Please produce copies of all pre-filed testimony, together with any drafts thereof, briefs and exhibits filed by or on behalf of BellSouth in that certain proceeding held by the Florida Public Service Commission entitled *Investigation Into the Statewide Offering of Access to the Local Network for Purposes of Providing Information Services*, Docket No. 88-0423-TP, Order No. 21815 (Sept. 5, 1989, Fla. P.S.C.), together with a transcript of that proceeding.**

RESPONSE: BellSouth objects to this Request to the extent it seeks the production of public documents. BellSouth has no other documents responsive to this request.

**REQUEST NO. 16: Please produce all documents which you identified, or upon which you relied, in preparing your answers to US LEC's First Set of Interrogatories to BellSouth in this matter, not specifically requested elsewhere in this first Request for Production.**

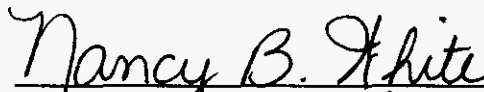
RESPONSE: Responsive documents are being produced.

**REQUEST NO. 17: Please produce the "Georgia Data Warehouse Study." Refer to Interrogatory No. 11, US LEC's First Set of Interrogatories to BellSouth Telecommunications, Inc. in this proceeding.**

**RESPONSE:** See BellSouth's Response to US LEC's 1<sup>st</sup> Request for Production, Item No. 5.

Respectfully submitted this 14th day of March, 2000.

BELLSOUTH TELECOMMUNICATIONS, INC.



NANCY B. WHITE (or)

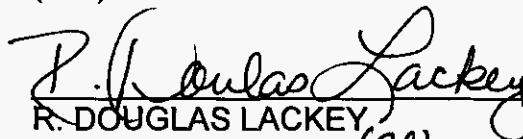
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