

3. On March 31, 2000, BellSouth responded to US LEC's Motion. BellSouth objects to striking Mr. Hendrix's testimony, disagreeing with US LEC's view on why it would be prejudiced if the issue was addressed now and disputing US LEC's assertion that section 252(i) requires the MTA Amendment to be resolved by Intermedia and BellSouth.¹ BellSouth also objects to delaying any testimony on the MTA Amendment rate issue, arguing that it would be wasteful to bifurcate the ISP dispute and the rate dispute. BellSouth stated that it would not object to continuing the entire hearing in this proceeding until after the Intermedia proceeding is concluded.

4. US LEC disagrees with BellSouth's view on the merits of the Motion to Strike; however, US LEC believes there is value in the suggestion that the interests of judicial economy will be served by resolving the entire dispute between the parties in a single proceeding that occurs after the Intermedia/BellSouth case has been resolved. A continuance of the hearing in this matter until after that date would permit the parties to resolve all of the factual and legal issues in a timely, cost-effective manner. It gives US LEC the opportunity to pursue discovery on the MTA Amendment rate issue--either in this case or in the separate complaint proceeding it intends to file--and to submit testimony on that issue. It also permits the Commission to address the legal issues raised by a section 252(i) adoption.

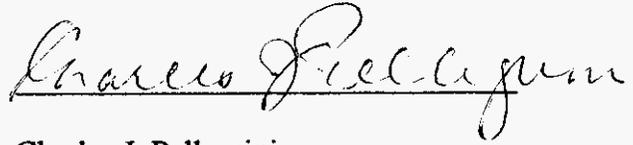
5. Therefore, US LEC will withdraw that portion of its Motion which seeks to strike Mr. Hendrix's testimony on the MTA Amendment on the understanding that BellSouth has not objected to continuing the hearing in this proceeding on the terms discussed herein; *i.e.*, until after the pending Intermedia proceeding and/or any separate UC LEC complaint has been resolved by this Commission.

WHEREFORE, for the reasons above, US LEC respectfully requests that the Commission approve its request for leave to withdraw its Motion to the extent it seeks to strike

¹ US LEC disagrees entirely with BellSouth's interpretation of the Hearing Officer's decision in the Global NAPs case. Order No. PSC-99--2526-PCO-TP, Docket No. 991267-TP. The most that can be said for that opinion is that it sets forth the circumstances under which one carrier can intervene in a separate complaint proceeding between two other carriers. It most certainly does not stand for the proposition that an interconnection agreement adopted pursuant to section 252(i) of the 1996 Act is to be interpreted on its own, without any regard at all for the intentions of the parties to the original agreement. Indeed, such a view would run afoul of the non-discrimination purpose of section 252(i).

the rebuttal testimony of Jerry Hendrix, and to continue the hearing in this proceeding according to the terms proposed herein.

This 3rd day of April, 2000.



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished by facsimile and hand delivery this 3rd day of April 2000, to:

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