

ORIGINAL

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

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In re: Request for arbitration concerning
complaint of US LEC of Florida Inc. against
BellSouth Telecommunications, Inc.
regarding breach of terms of
interconnection agreement and request for
relief.

Docket No. 990874-TP

Filed: March 20, 2000

RECORDS AND
REPORTING

US LEC OF FLORIDA INC.'S
PREHEARING STATEMENT

US LEC OF FLORIDA INC. ("US LEC") hereby files its prehearing statement
pursuant to Order No. PSC-99-2144-PCO-TP.

a. Witnesses

- (1) Gary D. Grefrath, Direct and Rebuttal Witness
- (2) Wanda Montano, Rebuttal Witness

US LEC reserves the right to seek leave to introduce additional testimony in rebuttal or
sur-rebuttal as may become necessary to the presentation of its case.

b. Description of Exhibits

AFA _____	GDG No. 1 (Direct)	November 1996 Agreement, Second Agreement, Third Agreement
APP _____		
CAF _____	GDG No. 2 (Direct)	BellSouth Interrogatory Responses 10 & 11, Docket No. 9577-U (Georgia)
CMW _____		
CTR _____	GDG No. 3 (Direct)	US LEC Invoices
EAG _____	GDG No. 4 (Direct)	BellSouth Interrogatory Responses 20-22, Docket No. 9577-U (Georgia)
LEG <u>2</u> _____		
MAS <u>5</u> _____	GDG No. 5 (Direct)	BellSouth Interrogatory Response 17, Docket No. 9577-U (Georgia)
OPC _____		
RRR _____	GDG No. 6 (Direct)	Billing & Payment Summary
SEC <u>1</u> _____	GDG No. 1 (Rebuttal)	Memoranda, Bourne to Grefrath, Grefrath to Bourne
WAW _____		
OTH _____		

US LEC reserves the right to introduce additional exhibits at the hearing as may become
necessary to the presentation of its case.

c. Statement of Basic Position

Each of the three US LEC interconnection agreements with BellSouth Telecommunications, Inc. ("BellSouth"), require that traffic transported and terminated to enhanced service providers, including Internet service providers ("ISPs"), on the network of one party that originated on the network of the other party ("ISP-terminated traffic") to be considered "local traffic" and to be compensated pursuant to the agreements' reciprocal compensation provisions. Under the FCC's Declaratory Ruling, FCC 99-38, this Commission is authorized to interpret interconnection agreements, such as the US LEC and BellSouth agreements and to require that ISP-terminated traffic be treated as local for reciprocal compensation purposes (notwithstanding the FCC's determination that such traffic is jurisdictionally mixed and appears to be largely interstate). In BellSouth's negotiations of each of the three agreements, with US LEC, ALEC, Inc., and Intermedia Communications Inc., the parties defined "local traffic" and delineated their reciprocal compensation obligations in ways that do not exclude ISP-terminated traffic and, under the prevailing treatment of ISP-terminated traffic as local at the time the agreements were signed, such an express exclusion was necessary to take that traffic outside the scope of the parties' reciprocal compensation obligations. Accordingly, the Commission should determine that BellSouth is obligated to pay US LEC reciprocal compensation for ISP-terminated traffic under the terms of their interconnection agreements.

d. Statement of Questions of Fact at Issue and US LEC's Positions

Issue 1: Under the reciprocal compensation provision of their Interconnection Agreements, are US LEC of Florida Inc. and BellSouth Telecommunications, Inc., required to compensate each other for delivery of traffic to Enhanced Service Providers, including Internet Service Providers?

US LEC's Position: The parties are required to compensate each other for delivery of traffic to Enhanced Service Providers, including ISPs, under the reciprocal compensation provisions of the Agreements. Traffic delivered to ISPs fits within the definition of "local traffic" under the Agreements and therefore is subject to reciprocal compensation under the separate provisions of the Agreements governing the parties' reciprocal compensation obligations.

Issue 2: Should this docket be closed?

US LEC's Position: Upon the Commission's ruling on Issue 1, this docket should be closed.

e & f. Statement of Questions of Law and Policy at Issue and US LEC's Positions

US LEC believes that Issue 1 is a question of law and policy as well as a question of fact and restates its position in part d above.

g. **Statement of Stipulated Issues:** There are no stipulations.

h. **Statement of Pending Motions:**

(1) BellSouth Telecommunications, Inc.'s Motion to File Surrebuttal Testimony or, in the alternative, to Strike, March 3, 2000.

US Lec responded on March 20, 2000:

US LEC of Florida Inc.'s Response to BellSouth Telecommunications, Inc.'s Motion to File Surrebuttal Testimony or, in the alternative, to Strike.

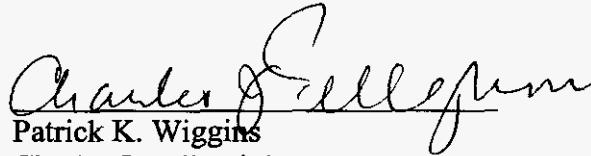
The parties are still engaged in discovery and it is possible that US LEC may need to seek Commission intervention should BellSouth's responses to US LEC's discovery prove inadequate.

i. **Statement of Requirements that Cannot be Complied with:** There are none.

Respectfully submitted this 20th day of March, 2000.

US LEC OF FLORIDA INC.

By:



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CERTIFICATE OF SERVICE

Docket No. 990874-TP

I HEREBY CERTIFY that a true and correct copy of the foregoing via hand delivery* or Federal Express for overnight delivery** this 20th day of March, 2000, to the following:

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