BELLSOUTH

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January 4, 2001

VIA HAND DELIVERY

David Waddell, Executive Secretary
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37238

Re: *Complaint of Intermedia Communications, Inc. Against BellSouth Telecommunications, Inc. To Enforce The Reciprocal Compensation Requirement of the Parties' Interconnection Agreement*
Docket No. 00-00280

Dear Mr. Waddell:

Enclosed are the original and thirteen copies of BellSouth's Rebuttal Testimony for the following witnesses:

Cynthia Cox	Keith Milner
David Scollard	Jerry Hendrix

Copies of the enclosed are being provided to counsel of record for all parties.

Very truly yours,

Guy M. Hicks

GMH:ch
Enclosure

241456

POSTED 01-04-01

CERTIFICATE OF SERVICE

I hereby certify that on January 4, 2001, a copy of the foregoing document was served on the parties of record, via the method indicated:

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[ ] Overnight

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Farrar & Bates
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Nashville, TN 37219-1823

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[ ] Overnight

Scott Saperstein
Senior Policy Counsel
Intermedia Communications, Inc.
3625 Queen Palm Drive
Tampa, FL 33619

BELLSOUTH TELECOMMUNICATIONS, INC.

DIRECT TESTIMONY OF CYNTHIA K. COX

BEFORE THE TENNESSEE REGULATORY AUTHORITY

DOCKET NO. 00-00280

JANUARY 4, 2001

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

A. My name is Cynthia K. Cox. 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. PLEASE PROVIDE A BRIEF DESCRIPTION OF YOUR BACKGROUND AND EXPERIENCE.

A. I graduated from the University of Cincinnati in 1981 with a Bachelor of Business Administration degree in Finance. I graduated from the Georgia Institute of Technology in 1984 with a Master of Science degree in Quantitative Economics. I immediately joined Southern Bell in the Rates and Tariffs organization with the responsibility for demand analysis. In 1985 my responsibilities expanded to include administration of selected rates and tariffs including preparation of tariff filings. In 1989, I accepted an assignment in the North Carolina regulatory office where I was BellSouth's primary liaison with the North Carolina Utilities Commission Staff and

the Public Staff. In 1993, I accepted an assignment in the Governmental Affairs department in Washington D.C. While in this office, I worked with national organizations of state and local legislators, NARUC, the FCC and selected House delegations from the BellSouth region. In February 2000, I was appointed Senior Director of State Regulatory.

Q. WHAT IS THE PURPOSE OF YOUR DIRECT TESTIMONY?

A. On April 5, 2000, Intermedia Communications, Inc. ("Intermedia") filed with the Tennessee Regulatory Authority ("Authority") its *Complaint to Enforce Interconnection Agreement*, alleging that BellSouth has breached its interconnection agreement with Intermedia by failing to pay Intermedia reciprocal compensation for terminating ISP-bound traffic. BellSouth witness Mr. Hendrix will address this issue.

Further, on September 28, 2000, Intermedia's *List of Issues* alleged that Intermedia should be compensated as provided in attachment B-1 of the Interconnection Agreement at the tandem interconnection rate of $0.019540. There are actually two parts to this issue. Mr. Hendrix will explain that an amendment signed by the parties on June 3, 1998 changed the local interconnection rates to be used by the parties. My testimony will explain why Intermedia is not due reciprocal compensation at the tandem interconnection rate on either local traffic or ISP-bound traffic.

Q. PLEASE ADDRESS THE SPECIFIC DISPUTE BETWEEN THE PARTIES CONCERNING RECIPROCAL COMPENSATION AT THE TANDEM SWITCHING RATE.

A. BellSouth and Intermedia disagree on the criteria that must be met in order for reciprocal compensation at the tandem switching rate to apply. The Telecommunications Act of 1996 ("Act") and the FCC's rules established that, when two carriers are involved in the delivery of local traffic, the originating carrier will reimburse the terminating carrier for the additional costs associated with the parts of the terminating carrier's network that are used to deliver that local traffic. The Act established reciprocal compensation as the mechanism for such reimbursement.

The elements potentially involved in the transport and termination of local traffic are end office switching, common interoffice transport and tandem switching. However, all three elements are not involved in every local call. BellSouth is entitled to reciprocal compensation at the tandem switching rate only when BellSouth performs the tandem switching function and, therefore, incurs the cost of tandem switching. Further, Intermedia is entitled to reciprocal compensation at the tandem switching rate only when its switches cover a comparable geographic area and perform the functions of a tandem switch, as opposed to an end office switch. However, Intermedia wants BellSouth to pay for tandem switching on <u>every</u> local call, regardless of whether Intermedia actually performed the function and incurred the cost of tandem switching.

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

A. In order for Intermedia to appropriately charge for tandem switching under the expired Interconnection Agreement, Intermedia must demonstrate to the Authority that, from July 1, 1996 through December 31, 1999, Intermedia's switch(es) actually: 1) served a comparable geographic area to that served by BellSouth's tandem switch and 2) performed local tandem functions. Intermedia should only be compensated for the functions that it actually provided.

Intermedia contends that the composite rate in the expired Interconnection Agreement, which includes the tandem switching component, should be applied to every call, regardless of which elements were actually used to terminate and transport the local traffic. The result of this application would be that BellSouth would pay Intermedia for all functions on all calls, regardless of what functions Intermedia actually performed on a given local call. However, BellSouth's position is that Intermedia was not due the tandem switching component because Intermedia's switches did not perform the tandem function for local traffic, nor did Intermedia's switches cover a geographic area comparable to BellSouth's tandem switches.

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

A. Under Section 251(b)(5) of the Act, all local exchange carriers are required to establish reciprocal compensation arrangements for the transport and termination of telecommunications. 47 U.S.C. § 251(b)(5). The Act and the FCC's rules limited

this obligation to local traffic. The terms and conditions for reciprocal compensation must be "just and reasonable," which requires the recovery of a reasonable approximation of the "additional cost" of terminating calls that originate on the network of another carrier. 47 U.S.C. § 252(d)(2)(A). In its Local Competition Order, the FCC stated that the "additional costs" of transporting and terminating traffic vary depending on whether or not a tandem switch is involved. (¶ 1090) As a result, the FCC determined that state commissions may establish transport and termination rates that vary depending on whether the traffic is routed through a tandem switch or directly to a carrier's end-office switch. *Id.*

The FCC, of course, recognized that a competitive local exchange carrier ("CLEC") might not configure its network precisely like BellSouth or any other incumbent carrier. In order to insure that a CLEC would receive the equivalent of a tandem switching rate <u>if it were warranted</u>, the FCC directed state commissions to do two things. First, the FCC directed state commissions to "consider whether new technologies (e.g., fiber ring or wireless network) <u>performed functions similar to those performed by an incumbent LEC's tandem switch</u> and thus whether some or all calls terminating on the new entrant's network should be priced the same as the sum of transport and termination via the incumbent LEC's tandem switch." (Local Competition Order ¶ 1090) (emphasis added). Further, the FCC stated that "[w]here the interconnecting carrier's switch serves a geographic area comparable to that served by the incumbent LEC's tandem switch, the appropriate proxy for the interconnecting carrier's additional costs is the LEC tandem interconnection rate." *Id.*

Therefore the FCC posed two requirements that must be met before a CLEC would be entitled to compensation at both the end office and the tandem switching rates, as opposed to only the end office rate, for any particular local call. The switch involved has to serve a comparable geographic area, and it has to perform tandem switching functions for local calls. BellSouth notes that Section 51.711(a)(1) of the FCC's rules states that "symmetrical rates are rates that a carrier other than an incumbent LEC assesses upon an incumbent LEC for transport and termination of local telecommunications traffic equal to those that the incumbent LEC assesses upon the other carrier for the same services." (emphasis added) Again, in Section 51.711(a)(3), the FCC states that "[w]here the switch of a carrier other than an incumbent LEC serves a geographic area comparable to the area served by the incumbent LEC's tandem switch, the appropriate rate for the carrier other than an incumbent LEC is the incumbent LEC's tandem interconnection rate."

Q. HAS THE FCC DEFINED WHAT FUNCTIONS A TANDEM SWITCH MUST PROVIDE?

A. Yes, it has. In its recently released Order No. FCC 99-238, the FCC's rules at 51.319(c)(3) state:

Local Tandem Switching Capability. The tandem switching capability network element is defined as:

(i) Trunk-connect facilities, which include, but are not limited to, the connection between trunk termination at a cross connect panel and switch trunk card;

(ii) The basic switch trunk function of connecting trunks to trunks; and

(iii) The functions that are centralized in tandem switches (as distinguished from separate end office switches), including but not limited, to call recording, the routing of calls to operator services, and signaling conversion features.

Of course, this definition of tandem switching capability has long been accepted and applied within the telecommunications industry. The introduction of local competition has no effect on the definition of tandem switching capability.

Q. HOW DOES SECTION 251(b)(5) OF THE ACT AND THE FCC'S RULES RELATE TO THE DISPUTE IN THIS CASE?

A. In resolving this dispute, the Authority must consider the parties' intent under the expired Interconnection Agreement. That agreement explicitly provided that the parties entered into the agreement "for the purposes of fulfilling their obligation pursuant to sections 251, 252 and 271 of the Telecommunications Act of 1996...". Therefore, in resolving this case, the Authority must consider the Act and applicable FCC rules in determining whether Intermedia was due reciprocal compensation at the tandem switching rate.

Q. ISN'T THIS AUTHORITY CURRENTLY CONSIDERING, IN DOCKET NO. 99-00948, WHETHER INTERMEDIA IS ENTITLED TO RECIPROCAL COMPENSATION AT THE TANDEM SWITCHING RATE?

A. Yes. However, a ruling by the Authority in Docket No. 99-00948 that Intermedia is not due reciprocal compensation at the tandem switching rate would not be

determinative of the issue in dispute in this case. In the Intermedia arbitration, the question before the Authority addressed to what extent Intermedia is entitled to the tandem switching rate under its new agreement. The showing Intermedia was required to make in that proceeding concerned the function and geographic coverage of its switches on a going-forward basis. Here, by contrast, Intermedia is seeking to recover reciprocal compensation at the tandem switching rate for the period from July 1, 1996 to December 31, 1999. Therefore, any showing concerning Intermedia's network in the year 2000 and going forward is not dispositive of Intermedia's network functions or coverage areas in 1996, 1997, 1998 or even 1999.

Q. WHAT DOES BELLSOUTH REQUEST OF THIS AUTHORITY?

A. BellSouth contends that Intermedia must satisfy the burden of proving that its switches actually performed the tandem switching function for local traffic and, further, that its switches actually served a geographic area comparable to BellSouth's tandem switches for the period from July 1, 1996 through December 31, 1999. Absent such proof, BellSouth requests the Authority find that Intermedia was not entitled to reciprocal compensation at the tandem switching rate under the parties' expired agreement.

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes.

(#235348)

AFFIDAVIT

STATE OF: Georgia
COUNTY OF: Fulton

BEFORE ME, the undersigned authority, duly commissioned and qualified in and for the State and County aforesaid, personally came and appeared Cynthia K. Cox – Senior Director – State Regulatory, Bellsouth Telecommunications Inc., who, being by me first duly sworn deposed and said that:

She is appearing as a witness before the Tennessee Regulatory Authority in Docket No. 00-00280 on behalf of BellSouth Telecommunications, Inc., and if present before the Authority and duly sworn, his testimony would be set forth in the annexed testimony consisting of 8 pages and 1 exhibit(s).

Cynthia K. Cox

Sworn to and subscribed
before me on 3/10/03

NOTARY PUBLIC

SUZY A. SHERWOOD
NOTARY PUBLIC
FAYETTE COUNTY, GEORGIA
MY COMMISSION EXPIRES
APR
28
2003

BELLSOUTH TELECOMMUNICATIONS, INC.

DIRECT TESTIMONY OF W. KEITH MILNER

BEFORE THE TENNESSEE REGULATORY AUTHORITY

DOCKET NO. 00-00280

JANUARY 4, 2001

Q. PLEASE STATE YOUR NAME, ADDRESS, AND POSITION WITH BELLSOUTH TELECOMMUNICATIONS, INC.

A. My name is W. Keith Milner. My business address is 675 West Peachtree Street, Atlanta, Georgia 30375. I am Senior Director - Interconnection Services for BellSouth Telecommunications, Inc. ("BellSouth"). I have served in my present role, which involves the management of certain issues related to local interconnection, resale, and unbundling, since February 1996.

Q. PLEASE SUMMARIZE YOUR BACKGROUND AND EXPERIENCE.

A. My career in telecommunications spans over 30 years and includes responsibilities in the areas of network planning, engineering, training, administration, and operations. I have held positions of responsibility with a local exchange telephone company, a long distance company, and a research and development company. I have extensive experience in all phases of telecommunications network planning, deployment, and operation in both the domestic and international

arenas.

I graduated from Fayetteville Technical Institute in Fayetteville, North Carolina in 1970, with an Associate of Applied Science in Business Administration degree. I later obtained a Master of Business Administration degree from Georgia State University in 1992.

Q. HAVE YOU TESTIFIED PREVIOUSLY BEFORE ANY STATE REGULATORY AUTHORITY OR PUBLIC SERVICE COMMISSION? IF SO, BRIEFLY DESCRIBE THE SUBJECT OF YOUR TESTIMONY.

A. I testified before the state Public Service Commissions in Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, South Carolina, the Tennessee Regulatory Authority, and the Utilities Commission in North Carolina on the issues of technical capabilities of the switching and facilities network, the introduction of new service offerings, expanded calling areas, unbundling, and network interconnection.

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

A. My testimony provides a description of BellSouth's Multiple Tandem Access (MTA) interconnection.

Q. WHAT IS MULTIPLE TANDEM ACCESS?

A. Multiple Tandem Access (MTA) interconnection allows the CLEC to interconnect at a single access tandem in a LATA that has multiple access tandems for the delivery of calls from its network throughout the LATA. This obviates the need for the CLEC to establish interconnection trunking at those access tandems where the CLEC has no NPA/NXX codes homing.

Q. PLEASE EXPLAIN THE OPTIONS AVAILABLE TO INTERMEDIA FOR INTERCONNECTING ITS NETWORK WITH BELLSOUTH'S NETWORK FOR THE EXCHANGE OF LOCAL TRAFFIC.

A. Exhibit WKM-1 which is attached to this testimony shows a representative network within a single LATA composed of six BellSouth end office switches, two BellSouth access tandems (referred to as the "North" and "South" tandems) and one Intermedia switch. This situation is depicted on page one of Exhibit WKM-1. Note that each of the two access tandems serves a given geographic area within the LATA and that each access tandem serves three of the six BellSouth end office switches. Intermedia has at least three options for interconnection in the representative network shown on page one of Exhibit WKM-1. Page 2 of Exhibit WKM-1 shows the first option available to Intermedia wherein Intermedia elects to interconnect its switch directly with each of BellSouth's six end office switches instead of sending its traffic to BellSouth's end office switches via BellSouth's

tandem switches. While I am not an expert on matters of service costing, I do note that, in the context of reciprocal compensation for transport and termination of local calls, BellSouth incurs one cost element, that is:

1. End office switching.

The reciprocal compensation mechanism allows BellSouth to recover its costs for the one cost element it does incur when terminating traffic to BellSouth's end users originated by Intermedia's end users. Where Intermedia chooses direct interconnection to BellSouth's end office switches, Intermedia bears its own costs (such as its own local switching and transport facilities between its switch and each of the six BellSouth end office switches) and thus does not pay BellSouth for such through the reciprocal compensation mechanism. Instead, Intermedia pays only the reciprocal compensation element for the end office switching function that BellSouth performs to terminate calls originated by Intermedia's end users.

Page 3 of Exhibit WKM-1 shows the second option available to Intermedia wherein Intermedia elects to interconnect at both of BellSouth's access tandems instead of directly interconnecting with each of BellSouth's end office switches. I understand that Intermedia refers to this option as "Single Tandem Interconnection" in that Intermedia is interconnected to every single access tandem in the LATA. In the context of reciprocal compensation, BellSouth incurs three cost elements. They are:

1. Tandem switching.
2. Transport between the tandem switch and the end office switch.
3. End office switching.

When Intermedia elects this option, BellSouth provides additional functionality to Intermedia (compared to the direct end office interconnection option) for the transport and termination of calls to BellSouth's end users originated by Intermedia's end users. Here, the reciprocal compensation mechanism allows BellSouth to recover the cost of tandem switching and transport facilities between the tandem switch and the end office switch in addition to the end office switching cost. Intermedia thus uses more of BellSouth's network (and less of its own network) for the completion of its end users' calls and compensates BellSouth accordingly.

Page 4 of Exhibit WKM-1 shows the third option available to Intermedia wherein Intermedia elects to interconnect at only one of the two BellSouth access tandems in the LATA. Intermedia sends its traffic to only one access tandem in the LATA, in my representative, the "North" access tandem. For calls from Intermedia's end users to BellSouth's end users in End Offices D, E and F, the "North" access tandem would route the calls to the "South" access tandem and then on to the appropriate end office switch for call completion. This is the option referred to as MTA. When Intermedia elects MTA, BellSouth incurs five cost elements. They are:

1. Tandem switching at the North tandem.
2. Transport between the North tandem and the South tandem.
3. Tandem switching at the South tandem.
4. Transport between the South tandem and the end office switch.
5. End office switching.

When Intermedia elects this option, BellSouth provides still more functionality to Intermedia for the transport and termination of calls to BellSouth's end users originated by Intermedia's end users. Charges for the MTA allow BellSouth to recover its costs for such (that is, for transport facilities between the first tandem switch and the second tandem switch and for the second tandem switching function). Intermedia thus uses even more of BellSouth's network for the completion of its end users' calls (instead of providing and using its own facilities to accomplish such) and compensates BellSouth accordingly. As I will discuss below, the MTA arrangement may prove more economical for a CLEC because the necessity for direct trunking to each of BellSouth's end offices or to each access tandem is obviated.

To summarize, Intermedia may choose among these three options. The more of BellSouth's network Intermedia chooses to use, the more Intermedia should pay to BellSouth for BellSouth having performed the additional functions. Conversely, when Intermedia provides more of the switching and transport functions required to terminate calls originated by Intermedia's end users, Intermedia would pay less to BellSouth.

Q. IS THE MTA OPTION MORE OR LESS EFFICIENT THAN INTERCONNECTING AT EACH ACCESS TANDEM?

A. It depends on the circumstances. The determination of which form of interconnection is more efficient is situational and best made on a case-by-case basis. In some cases, where a CLEC has only a small amount of local traffic and the access tandems in the LATA are geographically far apart, it might be more economically efficient for the CLEC to elect the MTA option instead of establishing small, relatively inefficient trunk groups to each access tandem in the LATA. In other cases, where the CLEC has significant amounts of traffic, the CLEC may find it more economically efficient to establish trunk groups to each access tandem in the LATA rather than to pay BellSouth for the MTA option.

Q. WHY WAS THE MTA OPTION DESIGNED?

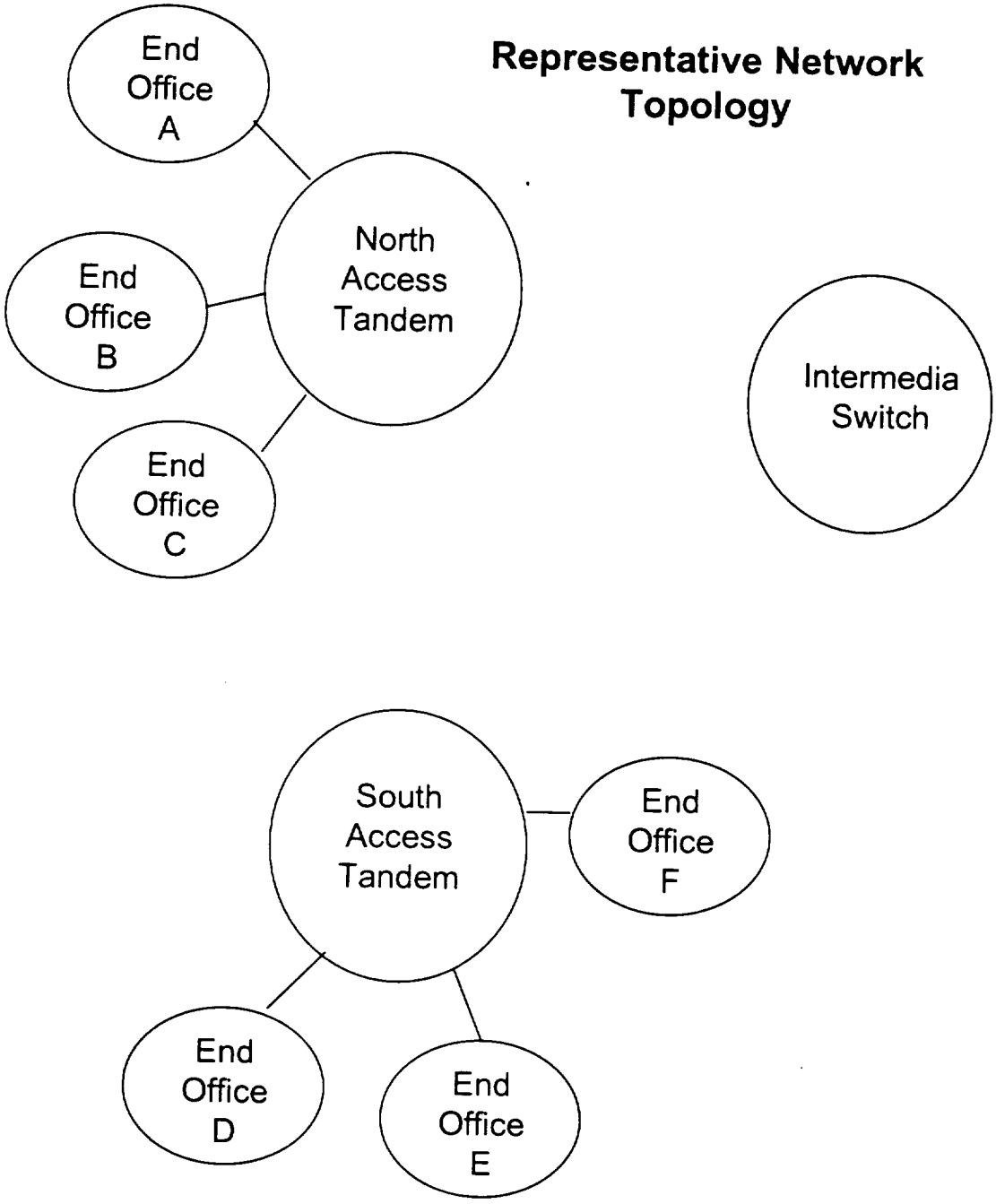
A. The MTA option, as I have discussed above, was designed to permit a CLEC to interconnect its network with BellSouth's network in a manner that the CLEC determines to be most economically efficient for the CLEC. The MTA option was not designed as a means of relieving traffic congestion or as a means of providing an alternate routing arrangement for traffic originated by BellSouth's end users. Rather, BellSouth designed MTA interconnection as a means to enable a CLEC to simplify its network architecture by interconnecting at some, but not

at all, of BellSouth's access tandems in a given LATA. While the CLEC can use MTA as a means to alternately route its originated traffic, provided the CLEC has trunk groups to other access tandems or end offices within the LATA, this is not the purpose for which MTA was designed. Instead, MTA enables a CLEC to minimize the points of interconnection between the CLEC's network and BellSouth's network. That is, if a CLEC elects BellSouth's MTA option, then the CLEC can simplify its network architecture by interconnecting at some, but not at all, of BellSouth's access tandems in a given LATA.

Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?

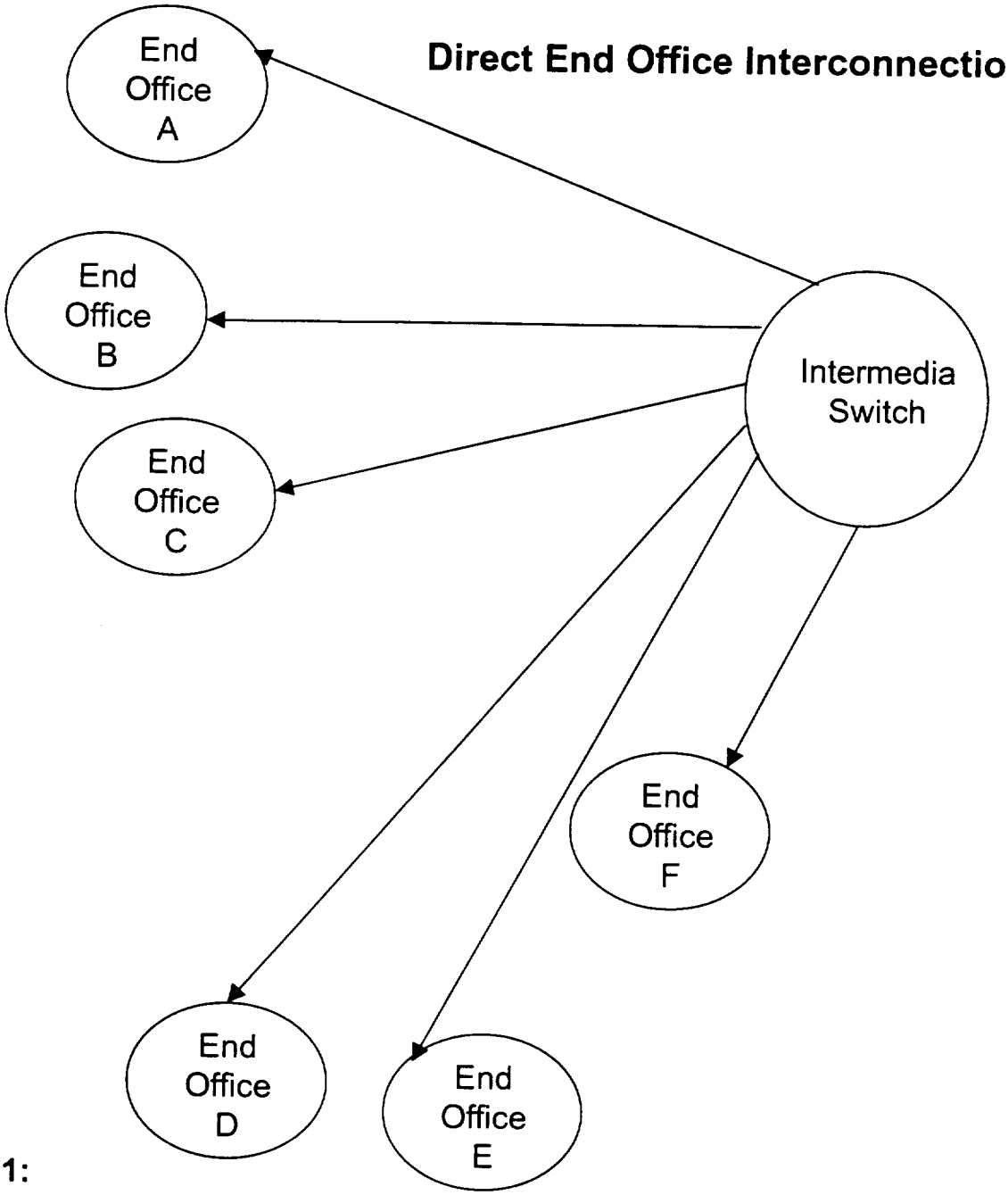
A. Yes.

Representative Network Topology



Note: Both access tandems and all six end offices are located in the same LATA.

Direct End Office Interconnection

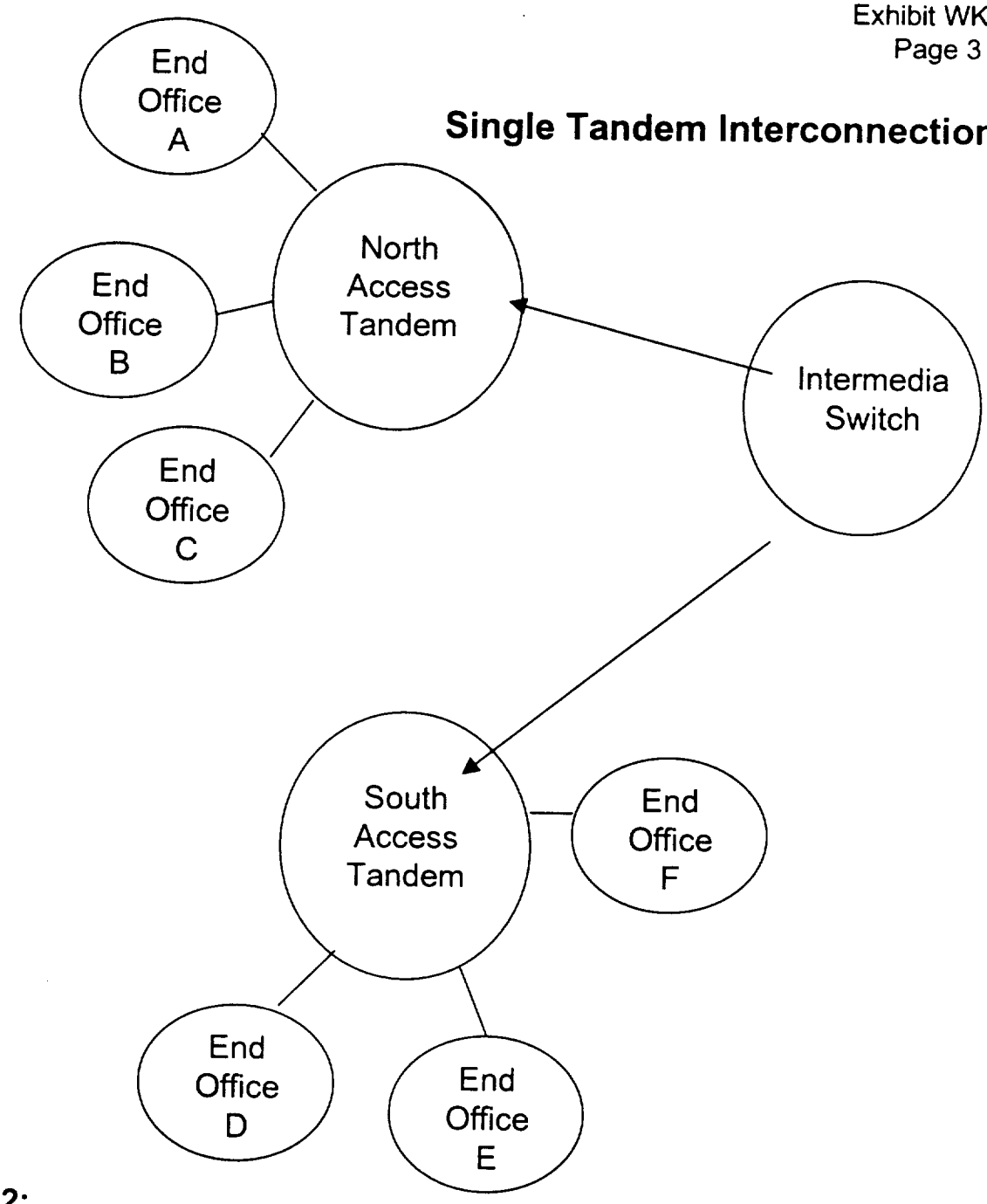


Option 1:
Intermedia provides direct trunking to <u>neither</u> access tandem but instead provides direct trunking to each end office switch.

<u>One</u> BellSouth cost element:

- End office switching.

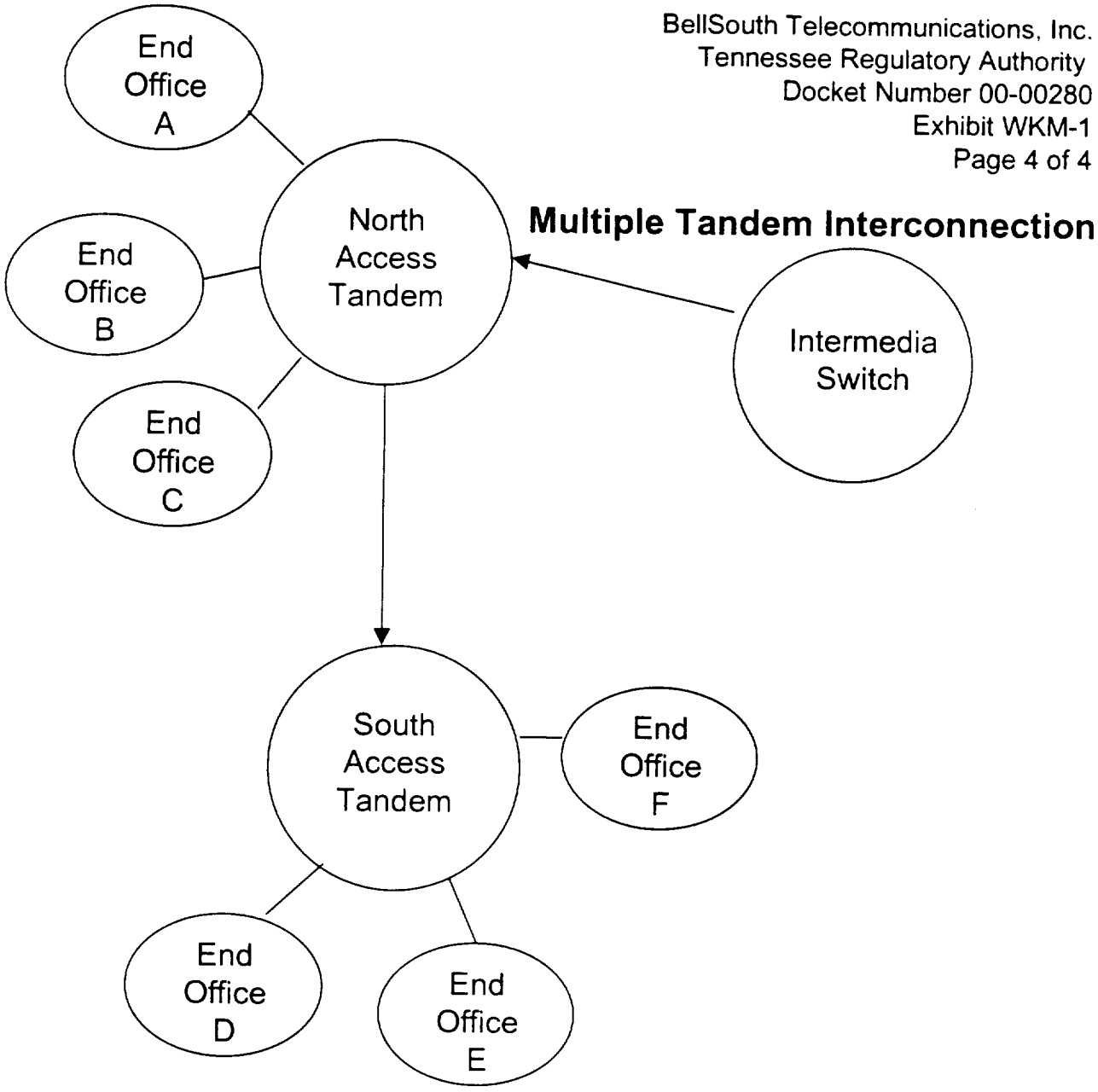
Single Tandem Interconnection



Option 2:
Intermedia provides direct trunking to <u>both</u> access tandem switches.

<u>Three</u> BellSouth cost elements:

- •Tandem office switching.
- •Transport between access tandem and end office switch.
- •End office switching.



Option 3:
Intermedia provides direct trunking to only one access tandem switch (MTA option).

Five BellSouth cost elements:

- •Tandem switching.
- •Transport between access tandem switches.
- •Second tandem switching.
- •Transport between access tandem and end office switch.
- •End office switching.

AFFIDAVIT

STATE OF: Georgia
COUNTY OF: Fulton

BEFORE ME, the undersigned authority, duly commissioned and qualified in and for the State and County aforesaid, personally came and appeared W. Keith Milner – Senior Director – Interconnection Services, BellSouth Telecommunications Inc., who, being by me first duly sworn deposed and said that:

He is appearing as a witness before the Tennessee Regulatory Authority in Docket No. 99-00280 on behalf of BellSouth Telecommunications, Inc., and if present before the Authority and duly sworn, his testimony would be set forth in the annexed testimony consisting of 2 pages and 1 exhibit(s).

W. Keith Milner

Sworn to and subscribed
before me on 8/10/01

NOTARY PUBLIC

SUZY A. SHERWOOD
MY COMMISSION EXPIRES
APR
28
2003
FAYETTE COUNTY, GEORGIA
NOTARY PUBLIC

BELLSOUTH TELECOMMUNICATIONS, INC.

DIRECT TESTIMONY OF DAVID P. SCOLLARD

BEFORE THE TENNESSEE REGULATORY AUTHORITY

DOCKET NO. 00-00280

JANUARY 4, 2001

Q. PLEASE STATE YOUR NAME, ADDRESS, AND POSITION WITH BELLSOUTH TELECOMMUNICATIONS, INC.

A. I am David P. Scollard, Room 26D3, 600 N. 19th St., Birmingham, AL 35203. My current position is Manager, Wholesale Billing at BellSouth Billing, Inc., a wholly owned subsidiary of BellSouth Telecommunications, Inc. In that role, I am responsible for overseeing the implementation of various changes to BellSouth's Customer Records Information System ("CRIS") and Carrier Access Billing System ("CABS").

Q. PLEASE SUMMARIZE YOUR BACKGROUND AND EXPERIENCE.

A. I graduated from Auburn University with a Bachelor of Science Degree in Mathematics in 1983. I began my career at BellSouth as a Systems Analyst within the Information Technology Department with responsibility for developing applications supporting the Finance organization. I have served in a number of billing system design and billing operations roles within the billing organization. Since I assumed my present responsibilities, I have overseen the progress of a number of billing system revision projects such as the

implementation of the 1997 Federal Communications Commission ("FCC") access reform provisions, billing of unbundled network elements ("UNEs"), as well as the development of billing solutions in support of new products offered to end user customers. I am familiar with the billing services provided by BellSouth Telecommunications to local competitors, interexchange carriers and retail end user customers.

Q. HAVE YOU TESTIFIED PREVIOUSLY BEFORE ANY STATE PUBLIC SERVICE COMMISSION? IF SO, BRIEFLY DESCRIBE THE SUBJECT OF YOUR TESTIMONY.

A. I have testified before the state Public Service Commissions in Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, South Carolina, the Tennessee Regulatory Authority, and the Utilities Commission in North Carolina on issues regarding the capabilities of the systems used by BellSouth to bill for services provided to retail customers, Interexchange Carriers (IXCs) as well as Competing Local Providers (CLECs).

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?

The purpose of my testimony is to explain the capabilities and limitations of the systems BellSouth employs to bill Competitive Local Exchange Carriers (CLECs) for reciprocal compensation.

Q. HOW DOES BELLSOUTH BILL CLECs FOR RECIPROCAL COMPENSATION?

A. BellSouth uses a system called the Carrier Access Billing System (CABS) to accumulate, rate and bill all usage charges for calls originated by a CLEC end user terminated by BellSouth. Several times each day usage records for call events that have occurred in the BellSouth network are transmitted to the BellSouth data centers for processing. Records for calls to be billed to BellSouth's retail customers are sent to the retail billing systems while records for billing reciprocal compensation are sent to CABS. Once in CABS, these records are edited to ensure that the data is valid and updated to a database to await the close of the bill period for the CLEC being billed. At the end of the bill period, the minutes of use for each type of call being billed are rated using the rate structure from the CLEC's contract and the resultant charges are formatted into the appropriate invoice records (or printed) and sent to the CLEC.

Q. HAS CABS EVER HAD THE CAPABILITY TO BILL RECIPROCAL COMPENSATION USING ONE SET OF RATE STRUCTURES FOR CALLS ROUTED THROUGH A MULTIPLE TANDEM ACCESS ARRANGEMENT AND ANOTHER SET OF RATE STRUCTURES FOR CALLS ROUTED THROUGH OTHER ARRANGEMENTS?

A. No. In 1996 and 1997, when CABS was being changed to support CLEC billing, the business requirements that were developed to describe the needed

software revisions called for the system to support a single set of reciprocal compensation rates for each CLEC operating in a given state. This requirement was developed to match the manner in which CLECs would be negotiating interconnection agreements. Therefore, in the state of Tennessee, for example, CABS could either bill a CLEC reciprocal compensation using a composite rate structure or using an elemental rate structure, but not both. At no time has CABS had the capability to choose between differing rate structures for the same CLEC based on the manner in which individual calls are routed through the network.

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes.

AFFIDAVIT

STATE OF: Alabama
COUNTY OF: Jefferson

BEFORE ME, the undersigned authority, duly commissioned and qualified in and for the State and County aforesaid, personally came and appeared David P. Scollard – Manager – Wholesale Billing, BellSouth Billing Inc., who, being by me first duly sworn deposed and said that:

He is appearing as a witness before the Tennessee Regulatory Authority in Docket No. 00-00280 on behalf of BellSouth Telecommunications, Inc., and if present before the Authority and duly sworn, his testimony would be set forth in the annexed testimony consisting of 4 pages and 0 exhibit(s).

David P. Scollard

Sworn to and subscribed
before me on 3/14/01

NOTARY PUBLIC

SUZY A. SHERWOOD
MY COMMISSION EXPIRES
APR
28
2003
FAYETTE COUNTY, GEORGIA
NOTARY PUBLIC

BELLSOUTH TELECOMMUNICATIONS, INC.

DIRECT TESTIMONY OF JERRY HENDRIX

BEFORE THE TENNESSEE REGULATORY AUTHORITY

DOCKET NO. 00-00280

JANUARY 4, 2001

Q. PLEASE STATE YOUR NAME AND COMPANY NAME AND ADDRESS.

A. My name is Jerry Hendrix. I am employed by BellSouth Telecommunications, Inc. as Executive Director – Customer Markets Wholesale Pricing Operations. My business address is 675 West Peachtree Street, Atlanta, Georgia 30375.

Q. PLEASE SUMMARIZE YOUR BACKGROUND AND EXPERIENCE.

A. I graduated from Morehouse College in Atlanta, Georgia, in 1975 with a Bachelor of Arts Degree. I began employment with Southern Bell in 1979 and have held various positions in the Network Distribution Department before joining the BellSouth Headquarters Regulatory organization in 1985. On January 1, 1996, my responsibilities moved to Interconnection Services Pricing in the Interconnection Customer Business Unit. In my current position as Senior Director, I oversee the negotiation of interconnection agreements between BellSouth and Competitive Local Exchange Carriers ("CLECs") in BellSouth's nine-state region.

Q. HAVE YOU TESTIFIED PREVIOUSLY?

A. Yes. I have testified in proceedings before the Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, South Carolina Public Service Commissions, the North Carolina Utilities Commission, and the Tennessee Regulatory Authority.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. The purpose of my testimony is to show that BellSouth does not owe Intermedia Communications, Inc ("Intermedia") reciprocal compensation for traffic bound for Internet service providers ("ISPs") for two primary reasons: first, ISP-bound traffic is, and always has been, interstate traffic; and, second, the parties did not agree to pay reciprocal compensation for ISP-bound traffic under the terms of the Agreement between the parties. Also, I will show that the June 3, 1998 Amendment to the Interconnection Agreement between BellSouth and Intermedia replaced the billing structure and rates for reciprocal compensation for all local traffic set forth in the original agreement.

Q. WHAT IS THE DISPUTE BETWEEN THE PARTIES?

A. There are actually several disputes between the parties in this case. The first issue is whether or not reciprocal compensation is owed for ISP-bound traffic under the Parties' July 1, 1996 Interconnection Agreement ('The Agreement"). The second dispute involves the rates for the transport and termination of local traffic after June 3, 1998. Intermedia incorrectly contends that the composite

rates set forth in table B-1 of the original agreement effective July 1, 1996 are the rates which apply. BellSouth contends that the elemental rates set forth in the June 3, 1998 Amendment replaced the composite rates contained in Intermedia's original interconnection agreement, and therefore apply after June 3, 1998. The third dispute is whether or not Intermedia should be compensated at the tandem rate for reciprocal compensation (BellSouth witness Ms. Cynthia Cox will address this issue).

Q. WHAT IS RECIPROCAL COMPENSATION?

A. Section 251 (b)(5) of the Telecommunications Act of 1996 obligated all telecommunications carriers to "establish reciprocal compensation arrangements for the transport and termination of telecommunications." In basic terms, reciprocal compensation is a two-way, or reciprocal, arrangement requiring a local exchange carrier ("LEC") who originates a local call to compensate the LEC who terminates the local call. By law, this obligation applies only if the call is local, and if the call is originated and terminated by different LECs. As the FCC has confirmed, this obligation does not extend to ISP traffic. Footnote 87 of the February 26, 1999 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) states:

> As noted, section 251(b)(5) of the Act and our rules promulgated

pursuant to that provision concern inter-carrier compensation for interconnected *local* telecommunications traffic. We conclude in this Declaratory Ruling, however, that ISP-bound traffic is non-local interstate traffic. Thus, the reciprocal compensation requirements of section 251(b)(5) of the Act and Section 51, Subpart H (Reciprocal Compensation for Transport and Termination of Local Telecommunications Traffic) of the Commission's rules do not govern inter-carrier compensation for this traffic.

Q. DID INTERMEDIA AND BELLSOUTH INTEND TO ASSUME AN OBLIGATION TO PAY RECIPROCAL COMPENSATION BEYOND THAT REQUIRED BY THE TELECOMMUNICATIONS ACT OF 1996?

A. No. BellSouth and Intermedia executed the agreement in order to fulfill their duties under the Telecommunications Act of 1996 – nothing more, nothing less. Nothing in the Agreement can reasonably be read to suggest that BellSouth and Intermedia agreed to go beyond their obligations under the Telecommunications Act, including the scope of their duty to pay reciprocal compensation.

Q. WHY IS ISP-BOUND TRAFFIC NOT SUBJECT TO THE RECIPROCAL COMPENSATION REQUIREMENTS UNDER THE TELECOMMUNICATIONS ACT OF 1996?

A. Internet service is a subset of the services that the Federal Communications Commission ("FCC") has classified as enhanced services. The FCC, for a variety of public policy reasons, has exempted enhanced service providers ("ESPs"), of which ISPs are a subset, from paying interstate access charges since 1983. Hence, ISPs are permitted to use the networks of LECs to collect and transport their interstate traffic. Moreover, ILECs, such as BellSouth, are not permitted to charge ISPs access charges for the access services ISPs receive. Instead, ISPs pay ILECs for the access services they use at rates equal to local exchange rates. However, as the FCC recently confirmed in its *Order On Remand In the Matter of Deployment of Wireline Services Offering Advanced Telecommunications Capability* ("Order on Remand") released December 23, 1999, the access charge exemption does not alter the fact that the service provided by Local Exchange Carriers ("LECs") to ESPs, which includes ISPs, is "exchange access." FCC 99-413, ¶ 43 (Dec. 23, 1999). Exchange access traffic is, by definition, interstate in nature, not local.

Q. IS RECIPROCAL COMPENSATION DUE FOR ISP-BOUND TRAFFIC UNDER THE JULY 1996 AGREEMENT?

A. No. First, nothing in the Agreement alters the definition of "local traffic" to which the parties had agreed and executed. Second, at a minimum, the Agreement requires the termination of traffic on either BellSouth's or Intermedia's network for reciprocal compensation to apply. As I explain below in more detail, when an end user accesses the Internet via an ISP server, that call does not terminate at the ISP server, regardless of whether the ISP is

served by BellSouth or by a CLEC. Further, the definition of local traffic requires the origination and termination of telephone calls to be in the same exchange and EAS exchanges as defined and specified in Section A.3 of BellSouth's General Subscriber Service Tariff ("GSST"). Local traffic as defined in Section A.3 of BellSouth's GSST in no way includes ISP-bound traffic. The FCC has concluded that ESPs, of which ISPs are a subset, use the local network to provide interstate services.

The reciprocal compensation obligations in the Agreement outlined above address the statutory mandate of the Telecommunications Act to provide reciprocal compensation for the transport and termination of local traffic. Traffic bound for the Internet through ISPs is outside the scope of this obligation, and the scope of this obligation was never intended to be artificially stretched to include anything other than what federal law required.

Q. DOES ISP-BOUND 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 its February 26, 1999 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). 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 CLECs 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 has stated publicly that he believes 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").

Furthermore, the FCC's recent Order on Remand released December 23, 1999, emphasizes again that ISP-bound traffic does not terminate at the ISP. Paragraph 16 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 ISP-bound traffic does NOT terminate at the ISP, and this is not qualified by any type of distinction that 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 rather is exchange access traffic.

Q. WHAT IS THE BASIS FOR YOUR TESTIMONY THAT THE FCC CONSIDERS A CALL TO "TERMINATE" AT THE END POINT OF THE COMMUNICATION?

A. The FCC has long held that jurisdiction of traffic is determined by the end-to-end nature of a call. It is, therefore, irrelevant that the originating end user and the ISP's POP are in the same local calling area, because the ISP's POP is not the terminating point of this ISP-bound traffic. In paragraph 12 of Order 92-18 (February 14, 1992), the FCC ruled:

> Our jurisdiction does not end at the local switch, but continues to the ultimate termination of the call. The key to jurisdiction is the nature of

the communication itself, rather than the physical location of the technology.

As the FCC has made clear, the ending point of a call to the Internet is not the ISP's POP, but rather the computer database or information source to which the ISP provides access. Calls that merely transit a CLEC's network without terminating on it cannot be eligible for reciprocal compensation.

Q. DID INTERMEDIA AND BELLSOUTH MUTUALLY AGREE TO PAY RECIPROCAL COMPENSATION FOR EXCHANGE ACCESS TRAFFIC SUCH AS ISP-BOUND TRAFFIC?

A. No. The executed agreement does not define ISP-bound traffic as local traffic. The Agreement only obligates the parties to pay reciprocal compensation for "terminating local traffic." Exchange access traffic such as ISP-bound traffic does not fit within the definition of local traffic. Indeed, the Agreement draws a clear distinction between "exchange access" and "local traffic." Nothing in the Agreement obligates BellSouth to pay reciprocal compensation for exchange access traffic.

Q. IF INTERMEDIA AND BELLSOUTH DID NOT MUTUALLY AGREE TO PAY RECIPROCAL COMPENSATION FOR ISP-BOUND TRAFFIC, CAN EITHER PARTY BE REQUIRED TO PAY RECIPROCAL COMPENSATION FOR THAT TRAFFIC?

A. No. If both of the parties did not mutually agree to pay reciprocal compensation for ISP-bound traffic, then BellSouth is under no contractual obligation to pay reciprocal compensation for such traffic. I was present at and participated in the negotiations leading up to the execution of the Intermedia Agreement, and I can unequivocally state that it was not BellSouth's intent, nor was it discussed during negotiations, that ISP-bound traffic would be subject to reciprocal compensation.

Q. HAS THIS AUTHORITY ADDRESSED THE ISSUE OF ISP-BOUND TRAFFIC PREVIOUSLY IN A COMPLAINT PROCEEDING?

A. While the Authority has not ruled specifically on the Intermedia agreement, the Authority has ruled on the issue of compensation for ISP-bound traffic in other complaint proceedings. BellSouth respectfully disagrees with the Authority's prior decisions on this issue, but since the Authority has previously ruled on this issue, BellSouth is willing, in this complaint, to abide by these rulings for the first issue of whether or not reciprocal compensation is due for ISP-bound traffic. BellSouth makes this offer without waiving its right to appeal or to seek judicial review on this issue. This still leaves two open issues to be resolved in this case: 1) whether or not the elemental rates in the June 3, 1998 amendment replace the original composite rates for local traffic, and 2) whether or not Intermedia is entitled to reciprocal compensation at the tandem switching rate.

Q. WHAT WERE THE RECIPROCAL COMPENSATION TERMS FOR LOCAL TRAFFIC IN THE ORIGINAL INTERCONNECTION AGREEMENT BETWEEN BELLSOUTH AND INTERMEDIA?

A. Section IV.B. of the July 1, 1996, Interconnection Agreement between BellSouth and Intermedia states:

> Each party will pay the other for terminating its local traffic on the other's network the local interconnection rates as set forth in Attachment B-1, by this reference incorporated herein.

Attachment B-1 sets forth a Composite rate of $.01941 per minute of use for dedicated traffic and a Composite rate of $.01954 for tandem switched traffic (Attachment B-1 is attached as Exhibit JDH-1).

Q. DID THE PARTIES AMEND THE AGREEMENT TO CHANGE THAT RECIPROCAL COMPENSATION ARRANGEMENT?

A. Yes. On June 3, 1998, the parties executed an Amendment to the original Interconnection Agreement which, among other things, changed the reciprocal compensation structure and rates for all local traffic. This Amendment states:

> 3. The Parties agree to bill Local traffic at the elemental rates specified in Attachment A.
>
> 4. This amendment will result in reciprocal compensation being paid between the Parties based on the elemental rates specified in Attachment A.

Q. WHAT WAS THE PURPOSE OF THE JUNE 3, 1998 AMENDMENT?

A. The purpose of the June 3, 1998, Amendment was twofold. First, it enabled Intermedia to avail itself of Multiple Tandem Access ("MTA"), which allows a CLEC to interconnect at a single access tandem, or, at a minimum, less than all access tandems within the LATA for certain terminating and transit traffic. MTA was not part of the original agreement, and therefore BellSouth was not obligated to provide MTA to Intermedia. MTA will be discussed in the testimony of BellSouth witness Mr. Keith Milner. Second, the Amendment incorporated new reciprocal compensation rates that the parties agreed to charge and to pay for the transport and termination of local traffic. These new reciprocal compensation rates for Tennessee were based on the interim rates established by this Authority on January 27, 1997 in Docket No. 96-01152.

Q. WHAT IS THE HISTORY BEHIND THE EXECUTION OF THE JUNE 3, 1998, AMENDMENT?

A. Intermedia requested that the parties amend the Interconnection Agreement to incorporate terms whereby BellSouth would make available MTA arrangements as described above. Coincidentally, BellSouth was in the unrelated process of incorporating commission-approved rates of several State Commissions into the BellSouth Standard Interconnection Agreement and obtaining amendments for existing Agreements. In 1996, when Intermedia and BellSouth entered into their Interconnection Agreement, the standard rate structure for reciprocal compensation was a composite rate, which had been

negotiated by the Parties and was not a "cost-based" rate approved by a state commission. Subsequent to that time, state commissions began approving "cost-based" elemental rates, which BellSouth then incorporated into its Standard Interconnection Agreement. Thus, when Intermedia requested an Amendment to the Interconnection Agreement to incorporate Multiple Tandem Access, BellSouth requested that Intermedia amend the Interconnection Agreement to also incorporate the "cost-based" rates with the elemental rate structure for reciprocal compensation for all local traffic established by state commissions in BellSouth's region. The parties agreed to the two provisions and executed the Amendment on June 3, 1998.

Q. WERE THE RECIPROCAL COMPENSATION RATES IN ATTACHMENT A OF THE AMENDMENT EXCLUSIVELY RELATED TO THE MULTIPLE TANDEM ACCESS PROVISIONS?

A. No. The new reciprocal compensation structure and rates applied to all local traffic, regardless of whether or not Intermedia availed itself of MTA.

Q. DID BELLSOUTH INTEND, AS INTERMEDIA CLAIMS, FOR THE RECIPROCAL COMPENSATION ARRANGEMENT SET FORTH IN THE JUNE 3, 1998, AMENDMENT, TO ONLY APPLY TO MULTIPLE TANDEM ACCESS ARRANGEMENTS?

A. No. As I have explained above, the two provisions were not linked. The new reciprocal compensation rate structure and rates as set forth in the Amendment

were not exclusively tied to the multiple tandem access, but rather, replaced the rates for all local traffic set forth in Attachment B-1 of the original Interconnection Agreement.

Q. AT THE TIME THIS AMENDMENT WAS EXECUTED, WOULD BELLSOUTH HAVE ENTERED INTO AN ARRANGEMENT WHICH REQUIRED ONE RECIPROCAL COMPENSATION RATE FOR TRAFFIC ROUTED THROUGH A MULTIPLE TANDEM ACCESS ARRANGEMENT AND A DIFFERENT RECIPROCAL COMPENSATION RATE FOR TRAFFIC NOT ROUTED THROUGH A MULTIPLE TANDEM ACCESS ARRANGEMENT?

A. No. As I was the person who signed this Amendment, I can unequivocally state that BellSouth did not enter into an arrangement which required a different reciprocal compensation rate for traffic routed through a multiple tandem access arrangement than for traffic not routed through a multiple tandem access arrangement. BellSouth would not have entered into such an arrangement, particularly when BellSouth cannot bill a different reciprocal compensation end office switching rate when traffic is routed through a MTA arrangement. BellSouth witness Mr. David Scollard will address the billing system capabilities and limitations in more detail.

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes.

AFFIDAVIT

STATE OF: Georgia
COUNTY OF: Fulton

BEFORE ME, the undersigned authority, duly commissioned and qualified in and for the State and County aforesaid, personally came and appeared Jerry D. Hendrix–Executive Director – Wholesale Pricing Operations, Bellsouth Telecommunications Inc., who, being by me first duly sworn deposed and said that:

He is appearing as a witness before the Tennessee Regulatory Authority in Docket No. 00-00280 on behalf of BellSouth Telecommunications, Inc., and if present before the Authority and duly sworn, his testimony would be set forth in the annexed testimony consisting of 12 pages and ____ exhibit(s).

Jerry D. Hendrix

Sworn to and subscribed
before me on _____

NOTARY PUBLIC

SUZY A. SHERWOOD
NOTARY PUBLIC
FAYETTE COUNTY, GEORGIA
MY COMMISSION EXPIRES
APR 28 2003