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November 10, 1999

David Waddell
Executive Director
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243-0505

In Re: Petition of ICG Telecom Group, Inc. for Arbitration with BellSouth Telecommunications, Inc. Pursuant to Section 252 of the Telecommunications Act of 1996
Docket No. 99-00377

Dear David:

Please accept for filing the original and thirteen copies of rebuttal testimony in the above-referenced proceeding on behalf of ICG Telecom, Inc.

Thank you for your assistance.

BOULT, CUMMINGS, CONNERS & BERRY, PLC

By: Henry Walker, attorney for ICG

HW/nl
Attachment
cc: Guy Hicks, attorney for BellSouth

FILE

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BEFORE THE TENNESSEE REGULATORY AUTHORITY
Nashville, Tennessee

IN RE: PETITION OF ICG TELECOM GROUP, INC FOR ARBITRATION WITH BELLSOUTH TELECOMMUNICATIONS, INC. PURSUANT TO SECTION 252 OF THE TELECOMMUNICATIONS ACT OF 1996	))))))	**DOCKET NO. 99-00377**

REBUTTAL TESTIMONY OF BRUCE HOLDRIDGE ON BEHALF OF ICG TELECOM GROUP, INC.

ICG TELECOM GROUP, INC.

REBUTTAL TESTIMONY OF BRUCE HOLDRIDGE

BEFORE THE TENNESSEE REGULATORY AUTHORITY

DOCKET NO. 99-00377

NOVEMBER 22-23, 1999

Q. ARE YOU THE BRUCE HOLDRIDGE WHO CAUSED DIRECT TESTIMONY TO BE FILED IN THIS PROCEEDING?

A. Yes, I am.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY TODAY?

A. I would like to take this opportunity to rebut a number of arguments made by BellSouth's witnesses on access to packet switching capabilities as unbundled network elements ("UNEs") (Issue 3), access to the enhanced extended link ("EEL") as a UNE (Issue 4), and the need for performance standards with effective remedies for non-performance (Issues 5 and 18-25).

Q. DURING NEGOTIATIONS BETWEEN ICG AND BELLSOUTH REGARDING THE AVAILABILITY OF PACKET-SWITCHING CAPABILITIES AS UNES, DID BELLSOUTH STATE THAT IT WOULD NOT MAKE SUCH CAPABILITIES AVAILABLE AS UNES?

A. Yes. BellSouth's position in the negotiations with ICG was that BellSouth would provide a "finished frame relay service" under tariff and access to limited disaggregated segments of the service under a commercial services contract. BellSouth also represented that it would not allow a CLEC to purchase UNEs to access service to the BellSouth frame relay product unless the CLEC is physically collocated in the same

central office as the BellSouth frame relay switch. Under this approach, if access between the non-contiguous central office and CLEC collocation site is required, the CLEC must purchase tariff-based access service.

Q. HAS BELLSOUTH CHANGED ITS POSITION ON THE AVAILABILITY OF PACKET-SWITCHING CAPABILITIES AS UNES SINCE ITS NEGOTIATIONS WITH ICG?

A. Yes, it appears that BellSouth has changed its position. Mr. Varner states that, subject to the conditions stated in his testimony, BellSouth has agreed to provide unbundled Packet Switching Frame Relay Service. Varner Direct at 13-14

Q. IS THIS NEW POSITION ON THE AVAILABILITY OF PACKET-SWITCHING CAPABILITIES AS UNES ACCEPTABLE TO ICG?

A. With regard to pricing, the proposed rates set forth in Exhibit AJV-8 to Mr. Varner's testimony are acceptable to ICG.

Q. WILL BELLSOUTH PROVIDE ACCESS TO THE ENHANCED EXTENDED LINK ("EEL") AS A UNE?

A. No. Mr. Varner, at page 10 of his testimony, states that "[t]hese extended links or extended loops would not be a single UNE, but would be a combination of loops and dedicated transport. . . . . BellSouth is not required to combine individual UNEs such as the loop and dedicated transport." As shown in Cindy Schonhaut's rebuttal testimony, Mr. Varner is wrong, and to the extent the FCC has not itself mandated provision of the EEL, the Authority itself has the requisite power to direct BellSouth to provide the EEL for ICG in Tennessee.

Q. WHY IS IT NECESSARY FOR ICG TO RECEIVE ACCESS TO THE EEL AS A UNE?

A. An EEL combines a loop cross-connected to line-side transport. As I indicated in my

direct testimony, without an EEL, if an ICG customer is served out of Central Office A yet the ICG collocation site is in Central Office B, ICG cannot link the customer to the ICG collocation site in Central Office B without first collocating in Central Office A. However, with an EEL, ICG could provide service from the ICG collocation at Central Office B to the ICG customer served out of Central Office A without having to create a collocation at Central Office A. This is similar to BellSouth's use of EELs to provide ISDN services to customers served out of Central Office A using an ISDN-capable switch located at Central Office B.

Without the EEL, ICG would be forced to collocate in each and every BellSouth central office in which ICG finds a customer. This would be cost prohibitive and require ICG to duplicate the public switched telephone network by collocating equipment in every conceivable central office, including those that may serve only a few ICG customers or prospective customers. If a carrier is required to incur the large expense of collocation at every central office, then the expansion of facilities-based competition and related new products will be unduly slowed. This would be similar to prohibiting BellSouth from providing ISDN services to customers served by central offices where it has not yet installed ISDN-capable switches, which would artificially slow the availability of ISDN services within BellSouth's network.

Q. HOW ELSE WOULD ICG'S USE OF THE EEL BE BENEFICIAL TO EMERGING COMPETITION AND THE EFFICIENT USE OF RESOURCES?

A. Access to the EEL as a UNE would free up central office space by obviating the need for a CLEC to collocate everywhere. The EEL could, therefore, be an invaluable tool

in ensuring that there is enough central office space for most, if not all carriers who seek to collocate at an ILEC's premises.

Q. AT PAGE 11 OF HIS TESTIMONY, MR VARNER RESPONDS TO THE QUESTION OF WHETHER THERE ARE "CURRENTLY COMBINED UNES THAT CONSTITUTE AN EXTENDED LOOP." PLEASE ADDRESS MR. VARNER'S RESPONSE.

A. Mr. Varner's position is that there are no "currently combined" UNEs that constitute an extended loop. As Mr. Varner states it:

> To provide EELs as requested by ICG, BellSouth will have to combine UNEs. Since BellSouth is not obligated to perform this function, ICG's request should be denied for that reason alone. There is no facility currently in place that would convert a BellSouth customer to ICG's collocation space. If a customer is connected to ICG's space, the customer is receiving service from ICG, not BellSouth. The facility requested by ICG must be created by BellSouth; it does not already exist.

If I understand what Mr. Varner is stating here, he is taking the position that the mere act of moving a cross-connect in a BellSouth central office to reroute an ISDN configuration from the BellSouth switch to the ICG equipment collocated in that same central office will result in an extended loop that is not "currently combined" (and thus one that BellSouth asserts it need not provide to ICG).

To illustrate what I believe is Mr. Varner's point, refer to ICG Exhibit No. __ (BH Rebuttal Exhibit 1). Assume a BellSouth customer takes ISDN service from BellSouth using a configuration that comprises the loop from point H (Customer's Premises) to Point G (the BellSouth Central Office A where ICG is not collocated) to the cross-connect at Point F (also at BellSouth Central Office A) thence via dedicated transport from BellSouth Central Office A to Point E (BellSouth Central Office B where ICG is collocated) and then

to Point C (BellSouth's switch in Central Office B). Assume also that ICG succeeded in attracting the customer, and simply requested BellSouth to connect the customer's extended loop at ICG's equipment collocated in Central Office B instead of the BellSouth switch at Central Office B. What Mr. Varner appears to be saying is that BellSouth would refuse ICG's request, even though neither the loop nor the interoffice transport were reconfigured.

Under Mr. Varner's description, the term "current combination" would be rendered meaningless except for CLEC-ordered special access arrangements in place. This clearly is inconsistent with the FCC's recently released UNE Order which states (paragraph 481):

> [S]ection 251(c)(3)'s nondiscrimination requirement means that access provided by the incumbent LEC must be at least equal in quality to that which the incumbent LEC provides to itself. We note that incumbent LECs routinely combine loop and transport elements for themselves. For example, incumbent LECs routinely provide combinations of loop and transport elements for themselves in order to: (1) deliver data traffic to their own packet switches; (2) provide private line services; and (3) provide foreign exchange service.

Accordingly, if I correctly understand Mr. Varner's testimony, BellSouth's position on this point is wrong, and the Authority should discard it. Additionally, under Section 251(c)(3), the Authority can, and should, require BellSouth to offer EELs in order to achieve access parity between BellSouth and CLECs and thereby further the development of local competition in Tennessee.

. Q. IS BELLSOUTH WILLING TO MAKE THE EEL AVAILABLE ON A NON-UNE BASIS?

A. Mr. Varner states at page 10 of his testimony that BellSouth is willing to provide combinations for certain functions through "voluntary agreements" that are not subject to the Act..

Q. IS THE AVAILABILITY OF THE EEL UNDER SUCH A "VOLUNTARY AGREEMENT" ACCEPTABLE TO ICG?

A. No, it is not. A voluntary agreement outside the context of an interconnection agreement is not a cost effective way for ICG to receive the EEL, because BellSouth's voluntary agreements do not incorporate TELRIC-based rates, and such agreements are subject to annual review which can cause prices to increase, and can result in complete withdrawal of the agreements. ICG cannot plan a business on such uncertain terms. .

Q. WHY IS IT NECESSARY THAT THE EEL BE AVAILABLE AT TELRIC RATES?

A. Whatever benefits that carriers receive from access to the EEL would be undercut significantly if the EEL were not available as a UNE at TELRIC rates. If ICG were to obtain the EEL only at retail rates for a finished service, the correct choice between replicating the existing public switched network and relying on the EEL would not be as clear. If the EEL were available only at retail rates, ICG might find it economically impractical to collocate in a greater number of central offices. As a result, fewer customers in this state would benefit from ICG's plans, as well as the business plans of other CLECs, to introduce innovative telecommunications services.

Q. SHOULD THE AUTHORITY IN THIS PROCEEDING NOT ONLY ORDER THAT BELLSOUTH BE REQUIRED TO PROVIDE THE EEL AS AN UNBUNDLED NETWORK ELEMENT, BUT ALSO THAT IT BE REQUIRED TO PROVIDE THE EEL AT COST-BASED RATES?

A. Yes, it should. Specifically, after ordering that BellSouth must provide to ICG the EEL as an unbundled network element, the Authority should further order that the appropriate price for an EEL be subject to the following equation:

	TELRIC for an unbundled loop
+	TELRIC for a cross connect of appropriate capacity
+	TELRIC for interoffice transport of appropriate capacity
=	TELRIC price of an EEL.

Q. CAN YOU EXPLAIN THE EQUATION ABOVE?

A. The equation above simply sums the TELRIC prices of the individual unbundled elements that BellSouth currently combines within its network to provide this functionality (*i.e.*, an unbundled loop, a cross-connect and unbundled interoffice transport). I place the phrase "...of appropriate capacity" in the equation above simply to highlight the fact that the EEL can be a combination of DS0 or larger bandwidth circuits. Obviously, TELRIC prices for DS0 and larger capacity services are priced differently such that the EEL would have a different TELRIC price based upon the capacity of the circuit chosen by the interconnecting carrier.

Q. HAS ICG DEVELOPED RATES IT BELIEVES BELLSOUTH SHOULD CHARGE FOR THE EEL?

A. Yes. Michael Starkey in his rebuttal testimony submits sample rates that ICG believes BellSouth should charge for the EEL.

Q. DO YOU WISH TO RESPOND TO MR. VARNER'S TESTIMONY ON THE PERFORMANCE STANDARD ISSUES IN THIS PROCEEDING?

A. Yes. At page 25 of his testimony, Mr. Varner states that "[e]ven if a guarantee, penalty or liquidated damage award could be arbitrated, such award is completely unnecessary." Mr. Varner continues by asserting that "State law and State and Federal Commission procedures are available, and are perfectly adequate, to address any breach of contract situation should it arise." Mr. Varner's assertions are wrong. As I stated in my direct testimony, BellSouth has every incentive to provide a competitor, such as ICG, inadequate service for use of its bottleneck facilities. BellSouth can — and does — fail to meet deadlines for installations ICG requires to serve its customers or prospective customers. It is no remedy for ICG to file and prosecute a complaint with the Authority, and await the issuance of an order directing BellSouth to meet an installation deadline that is long since past. Instead, BellSouth needs the economic incentive of liquidated damages to assure it works diligently to meet its agreed upon performance standards. The need for performance standards and effective remedies has become a matter of vital importance with CLECs. As noted in the testimony of Gwen Rowling, the FCC and certain state commissions have begun to recognize that such standards and remedies must be established if competition in the local exchange market is to grow.

Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?

A. Yes, it does.

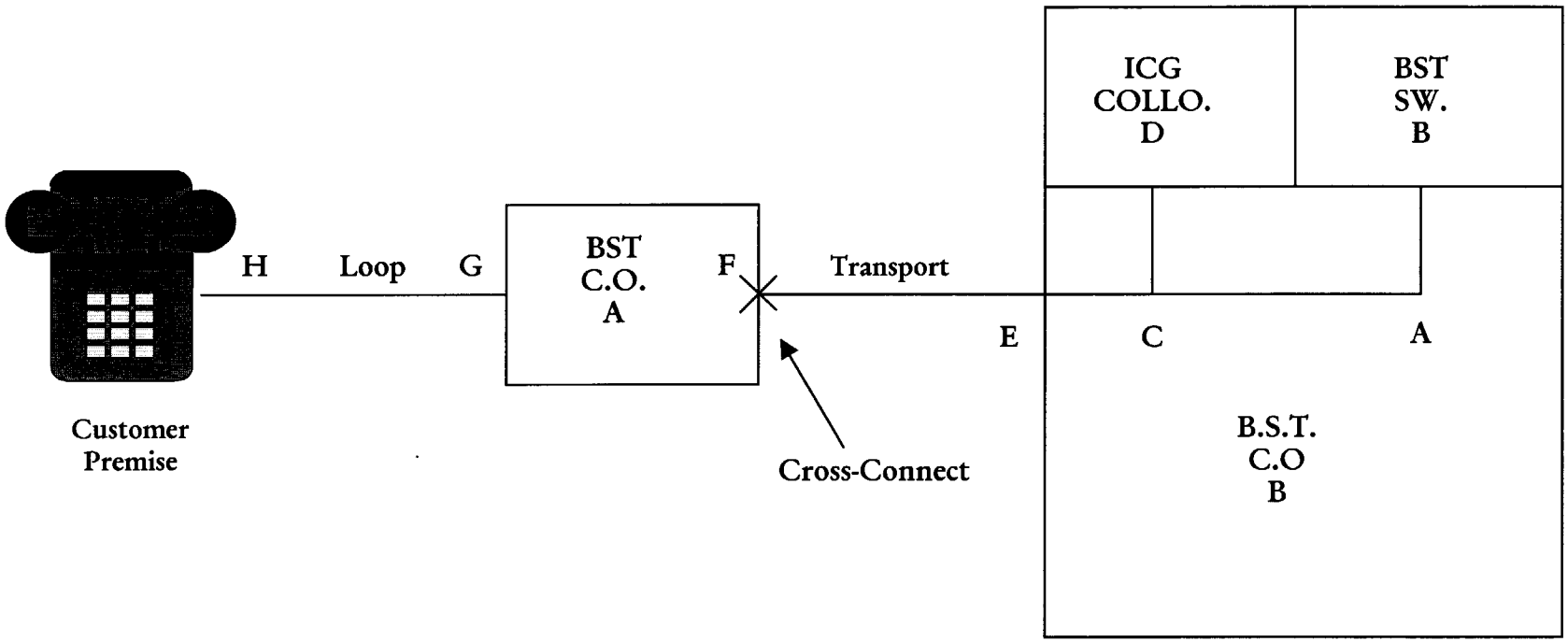


Exhibit No. BH Rebuttal Exhibit 1

BEFORE THE TENNESSEE REGULATORY AUTHORITY
Nashville, Tennessee

IN RE: PETITION OF ICG TELECOM GROUP, INC FOR ARBITRATION WITH BELLSOUTH TELECOMMUNICATIONS, INC. PURSUANT TO SECTION 252 OF THE TELECOMMUNICATIONS ACT OF 1996	))))))	**DOCKET NO. 99-00377**

REBUTTAL TESTIMONY OF MICHAEL STARKEY ON BEHALF OF ICG TELECOM GROUP, INC.

Q. Please state your name.

A. My name is Michael Starkey.

Q. Are you the same Michael Starkey who previously filed direct testimony in this proceeding?

A. Yes, I am.

Q. What is the purpose of your rebuttal testimony?

A. My rebuttal testimony addresses Issues Number 4, 6 and 7.

Q. What is your testimony on Issue 4?

A. The staff has asked that we propose rates for the enhanced extended loops (EELs) that ICG is requesting from BellSouth. In Mr. Holdridge's rebuttal (p. 5-6), he provides a basic formula for an EEL rate: an unbundled loop plus a cross connect plus interoffice transport – all at TELRIC prices – equals an EEL. Attached to my rebuttal is an example of how that formula would be applied to one of the typical EEL arrangements that ICG would need (Schedule 2). I would note that, in most EEL arrangements, multiplexing is required. BellSouth's cost study filed with the TRA in the UNE docket does not include a multiplexing rate. BellSouth should be directed to file a TELRIC-based rate for that element.

Q. What about Issue 6, volume and term discounts?

A. ICG has elected to withdraw that issue.

Q. What is your rebuttal testimony on Issue 7?

A. Issue 7 involves a disagreement that exists between the parties regarding ICG's ability to charge BellSouth a symmetrical, reciprocal compensation rate including charges associated with end office, transport and tandem switching. Issue Number 7 is defined as follows:

> ISSUE 7: For purposes of reciprocal compensation, should ICG be compensated for end office, tandem, and transport elements of

termination where ICG's switch serves a geographic area comparable to the area served by BellSouth's tandem switch?

Q. Can you reiterate ICG's position on this issue?

A. BST should pay ICG a reciprocal compensation rate based upon the recovery of tandem, transport and end office switching costs. The FCC at paragraph 1090 of its *First Report and Order in C.C. Docket No. 96-98* (hereafter referred to as the FCC's Local Competition Order) provides the following guidance with respect to the appropriate rate of reciprocal compensation ICG should receive from BST:

> 1090. We find that the "additional costs" incurred by a LEC when transporting and terminating a call that originated on a competing carrier's network are likely to vary depending upon whether tandem switching is involved. We, therefore, conclude that states may establish transport and termination rates in the arbitration process that vary according to whether the traffic is routed through a tandem switch or directly to an end-office switch. In such event, states shall also consider whether new technologies (e.g. fiber ring or wireless networks) perform functions similar to those performed by an incumbent LEC's tandem switch 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. *Where 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*. [emphasis added]

ICG's switch serves a comparable geographic area to that served by BST's tandem. BellSouth never disputes this singularly critical fact. As such, ICG is entitled to charge a rate equal to BellSouth's tandem switching, transport and end office switching rates.

Q. BellSouth frames this issue as an attempt on ICG's part to "be compensated for the cost of equipment it does not own and for functionality it does not provide." [Varner Direct, Page 17] Can you respond to BellSouth's contention?

A. ICG is in no way attempting to recover costs for equipment it does not own nor to be paid for functionality it does not provide. ICG's switching platform switches traffic within a region comparable in size to that served by a BST tandem, and

ICG incurs costs associated with transporting calls within that area. ICG experiences the same types of transport costs that BellSouth incurs within its network over a comparable geographic area. I have included a diagram with both my direct and my rebuttal testimony (Schedule 1), that describes the ICG network and compares it with the BST network, showing that both networks, though engineered somewhat differently, provide the same functionality (and generate comparable costs) over a comparable geographic region. Alternatively, Mr. Varner provides no explanation for his contention that somehow ICG is attempting to recover costs it doesn't incur; he does not identify the equipment ICG doesn't own but whose costs ICG is asking to recover; nor does he rebut the fact that ICG's switch performs the same function and serves a comparable area to the BST tandem. In short, from what I've read within his testimony, Mr. Varner provides no evidence upon which the facts surrounding this issue can be better understood.

Q. Is there further evidence supporting ICG's receipt of tandem interconnection rates?

A. Yes, there is. In addition to serving a geographic area comparable to that served by the BST tandem, ICG's switch performs the same functionality as does the BST tandem. ICG's switching platform transfers traffic amongst discrete network nodes that exist in the ICG network for purposes of serving groups of its customers in exactly the same fashion that BST's tandem switch distributes traffic. The fact that ICG's network may incorporate collocated SONET nodes instead of Class 5 central office switches, as Mr. Varner alludes to in his direct testimony at page 18, is irrelevant. This architectural difference between the two networks is a result of the technology each carrier has chosen in an effort to best serve its particular customer base. The BST network is developed to serve a larger, more densely populated customer base while ICG's network relies upon distributed network intelligence to aggregate a less densely congregated customer base into a central switching platform. The fact that different equipment is used, however, does not alter the fact that the exact same functionality is provided or that comparable costs are incurred.

ICG's network serves a comparable geographic area to that served by BST's tandem, provides the same functionality and generates comparable costs. There is no reason why ICG should charge anything other than the tandem interconnection rate.

Q. Does the FCC impose as strict a standard as you've described above in terms of whether ICG should be compensated at BST's tandem interconnection rate?

A. No, it doesn't. Even though I've explained that in addition to serving a comparable geographic area to that served by BST's tandem the ICG switch also performs similar functionality, this is information beyond what is required by the FCC for ICG to receive an interconnection rate equal to BST's tandem interconnection rate. At paragraph 1090 of its Local Competition Order, as included above, the FCC requires only that ICG's switch serve a geographic area comparable to that served by the incumbent's tandem switch in order to receive an interconnection rate equal to the incumbent's tandem interconnection rate. The actual FCC rule that discusses this issue is even more direct:

> **§ 51.711 Symmetrical reciprocal compensation**
>
> (3) Where 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.[1]

My discussion above regarding the fact that ICG's switching platform also performs functions similar to the BellSouth tandem is not meant to expand the FCC's single criteria, but instead merely to point out that ICG's switching platform meets this criteria and more.

Q. Has Mr. Varner's testimony regarding this issue changed as ICG and BellSouth have litigated this issue in other states?

[1] Rule 51.711 also includes subparts (a)(1) and (a)(2) that have been excluded from the excerpt above.

A. Yes, it has. Mr. Varner's testimony in both North Carolina and Alabama held that BellSouth would not pay a carrier the tandem interconnection rate unless that carrier's switch was included in the LERG (Local Exchange Routing Guide) as a tandem. [See for example page 33 of Mr. Varner's Direct Testimony before the Alabama Public Service Commission in Case No. 27069] In the Florida proceeding Ms. Schonhaut clarified that ICG's switches, including those in Tennessee, are included in the LERG as a tandem. Regardless of his previous criteria that appears to have been met by ICG, Mr. Varner and BellSouth in this proceeding continue to refute BellSouth's obligation to compensate ICG at the tandem rate.

Q. What is the LERG?

A. The LERG is an acronym which stands for the Local Exchange Routing Guide. It is a document published by the Traffic Routing Administration (a Bellcore – now Telecordia Technologies, Inc. – organization). It is the tool by which network engineers determine the numerous telephone number assignments and subsequent routing needs of the public switched network. The LERG reports area code (NPA) and central office (NXX) numbering assignments as identified by the North American Numbering Plan (NANP) and administered by the North Ameritech Numbering Council (NANC), as well as carrier identification codes (CIC) and specialty dialing codes (e.g., *67 – caller identification blocking).

Q. Can you explain in greater detail your earlier point that ICG's Lucent 5ESS switching platform meets the definition and performs the functions identified within the LERG for a tandem office?

A. The LERG at Section 1, Page 44 of its General Information documentation, defines its "TDM" office identification nomenclature that it uses to identify a tandem office in the public switched network. It defines the TDM nomenclature as that identifying a Tandem office wherein "one or more of the following functions or homing relationships..." exist within the office:

- Feature Group B Tandem
- Feature Group C Tandem

- Feature Group D Tandem
- Operator Services Tandem
- Signalling Transfer Points
- End Office Host
- 800 SSP Tandem
- 500 SSP Tandem
- Intermediate Office

ICG's Lucent 5ESS is not only capable of performing nearly all of these functions, it is used within the ICG network to perform many of these functions and does so on a daily basis. For example, ICG uses its switching platform as its Feature Group D access point for originating and terminating traffic to and from IXCs. Likewise, ICG uses its 5ESS as its Operator Services access point for all of its local customers.

Q. Is there additional information in the LERG that supports ICG's office being defined as a tandem and for ICG receiving tandem interconnection rates for terminating BST traffic?

A. Yes, there is. In addition to its traditional definition of a tandem found at Page 44 of its General Information documentation, the LERG at page 14 defines its "Class 4/5" identification nomenclature. The LERG defines a Class 4/5 office as follows:

> A switching entity that performs both a Class 4 and Class 5 function. The Class 4/5 office is a single processor switching entity that provides line side and trunk/toll side capabilities to its end users. The Class 4 function allows the switching entity to perform tandem type functions, which may include FG B/C/D access service, and data base query functions, operator services functions, etc. It also provides access on a toll basis to subtending offices below the Class 4 office including host/remote arrangements. The Class 5 function allows the switching entity to perform at the lowest level of switching within the LEC network. This function allows end users to receive dial tone, pass digits for call routing, provide line-side features, such as call waiting, call forwarding, etc. and provides telephone number association for terminating calls.

This definition is almost exactly the same as the manner by which I described ICG's switching platform in my direct testimony, and the manner by which ICG uses its switch within its network.

Q. Please summarize your testimony regarding this issue.

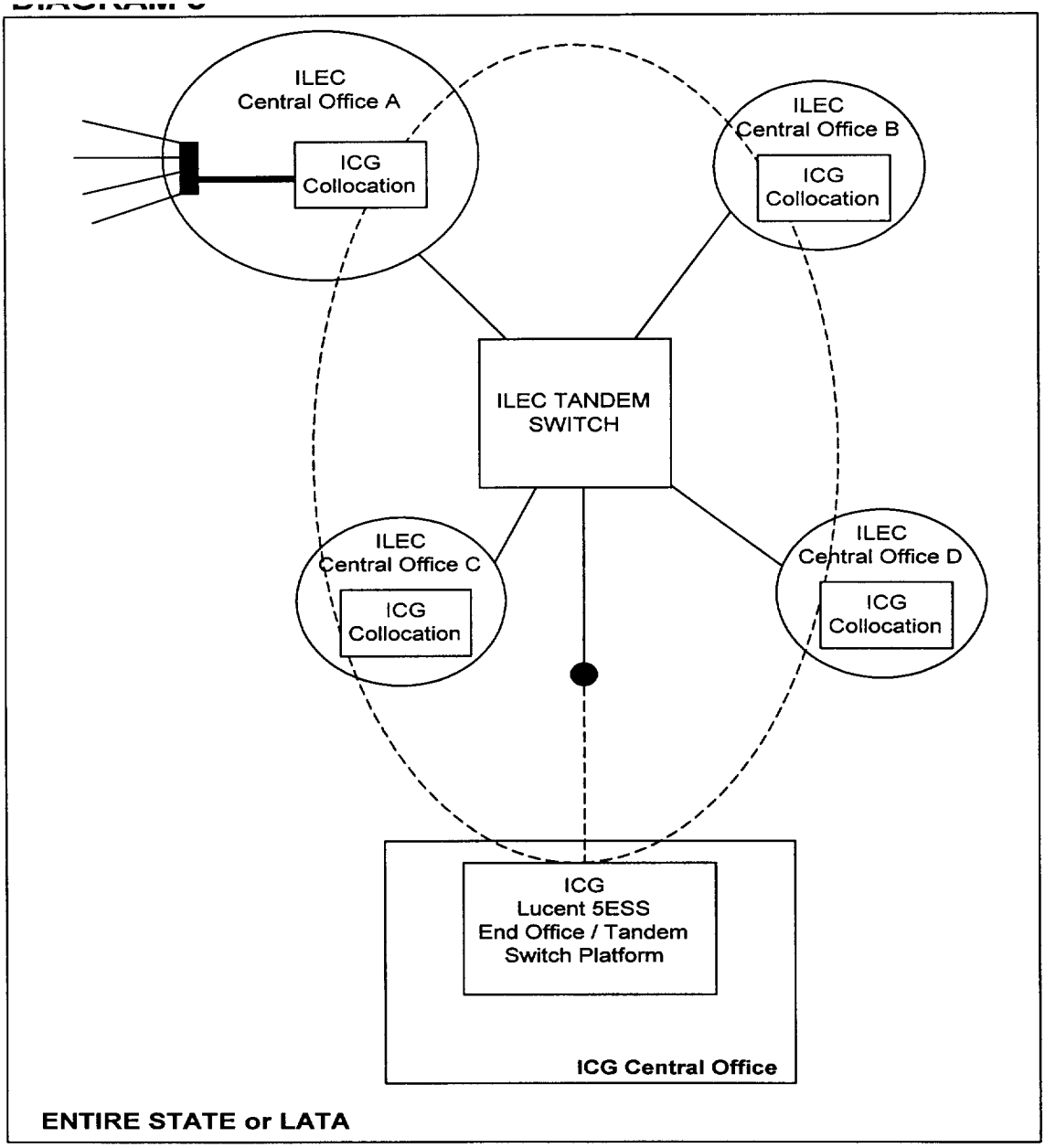
A. Simply put, ICG meets the FCC's single criterion that allows it to charge a reciprocal compensation rate equal to BellSouth's tandem, transport and end office switching rates. That is, ICG's switch serves a geographic area comparable to the area served by BellSouth's tandem. However, in addition to meeting this criterion, ICG's switch also provides similar functionality to the BellSouth tandem switch and performs the same function within the ICG network that BellSouth's tandem serves within the BellSouth network. Therefore, contrary to Mr. Varner's testimony, the Authority should require the parties to compensate one another for purposes of reciprocal compensation, at a symmetrical rate equal to BellSouth's tandem switching, transport and end office switching rates.

Q. Does this conclude your rebuttal testimony?

A. Yes.

Starkey Rebuttal

SCHEDULE 1



Starkey Rebuttal

SCHEDULE 2

EHANCED EXTENDED LINK (EEL)
TENESSEE PRICES
Pursuant to TELRIC rates compliant with
Tenessee Commission's most recent Order

VOICE GRADE LOOP - VOICE GRADE TRANSPORT assumes 4 mile transport				
ELEMENT		**RATE**	**NUMBER REQUIRED**	**EXTENDED PRICE**
Unbundled Loop Service Level 1	A.1.1	**$19.03**	**1**	**$19.03**
2-Wire Cross Connect	H.1.9	**$0.36**	**1**	**$0.36**
Interoffice Transport				
Voice Grade				
Dedicated - per mile	D.2.1	**$0.0213**	**4**	**$0.09**
Dedicated - Facility Termination	D.2.2	**$20.24**	**2**	**$40.48**
TOTAL EEL PRICE/COST				**$59.96**

DS1 LOOP - DS1 TRANSPORT assumes 4 mile transport				
ELEMENT		**RATE**	**NUMBER REQUIRED**	**EXTENDED PRICE**
Local Channel Dedicated DS1	D.5.3	**$45.55**	**1**	**$45.55**
DS1 Cross Connect	H.1.11	**$2.66**	**1**	**$2.66**
Interoffice Transport				
Voice Grade				
Dedicated - per mile	D.4.1	**$0.4350**	**4**	**$1.74**
Dedicated - Facility Termination	D.4.2	**$89.84**	**2**	**$179.68**
TOTAL EEL PRICE/COST				**$229.63**

BEFORE THE TENNESSEE REGULATORY AUTHORITY
Nashville, Tennessee

IN RE: PETITION OF ICG TELECOM GROUP, INC FOR ARBITRATION WITH BELLSOUTH TELECOMMUNICATIONS, INC. PURSUANT TO SECTION 252 OF THE TELECOMMUNICATIONS ACT OF 1996	)	DOCKET NO. 99-00377

REBUTTAL TESTIMONY
OF CINDY Z. SCHONHAUT
ON BEHALF OF
ICG TELECOM GROUP, INC.

ICG TELECOM GROUP, INC.

REBUTTAL TESTIMONY OF CINDY Z. SCHONHAUT

BEFORE THE TENNESSEE REGULATORY AUTHORITY

DOCKET NO. 99-00377

NOVEMBER 22-23, 1999

Q. ARE YOU THE CINDY SCHONHAUT WHO CAUSED DIRECT TESTIMONY TO BE FILED IN THIS PROCEEDING?

A. Yes, I am.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY TODAY?

A. I would like to take this opportunity to respond to the testimony of Mr. Varner, particularly his analysis of the various orders of the Federal Communications Commission ("FCC") and court opinions that have some bearing on the instant proceeding. I will also respond to Mr. Varner's testimony about reciprocal compensation for calls to ISPs, and about the availability of the EEL as a UNE.

Q. WHAT IS THE PROBLEM, IN GENERAL TERMS, WITH MR. VARNER'S TESTIMONY?

A. Mr. Varner spends a good deal of time discussing various FCC orders and corresponding court decisions. In virtually every case, Mr. Varner's point is that this Authority should not become involved in this issue because the concerns may one day be addressed elsewhere. Under Mr. Varner's approach, the existence of any legal uncertainty is cause for competitive paralysis. Mr. Varner preaches inaction and offers no prescription to break the current regulatory gridlock.

The regulatory vacuum that would result from this Authority's inaction would have significant effects on both ICG and competition within this state. The carriers would be left to fight out their differences among themselves, with BellSouth the all-but-certain winner in every instance. In addition, if this Authority does not act on the issues in ICG's petition for arbitration, it will either be a very long time indeed before ICG is able to win relief (as in the case of UNEs or UNE combinations), or ICG will be forever foreclosed from relief for the period before the FCC finally acts (as in the case of reciprocal compensation for ISP calls). The delay that ICG and other CLECs face in having these issues addressed will dictate the speed with which competition begins to flourish in this state. ICG hopes to continue to provide more innovative services to more customers at better prices, but this can occur only if the regulatory environment is supportive and attentive to competitive concerns. To this end, ICG respectfully requests that this Authority act in this proceeding to bring much needed certainty to the competitive playing field in Tennessee.

Q. DO YOU AGREE WITH THE WAY MR. VARNER CHARACTERIZES WHAT UNES AND UNE COMBINATIONS BELLSOUTH MUST CURRENTLY MAKE AVAILABLE?

A. No. Mr. Varner's lengthy recitation of the history of the FCC's local competition rules, combined with his analysis of the current state of the law, appears to be designed to intimidate this Authority from taking up this issue in this case. He argues, in effect, that in the face of any uncertainty surrounding the status of the FCC's rules on UNEs, this Authority should do nothing. Unfortunately, doing nothing on an important issue like the availability of UNEs will

significantly retard, if not halt, the growth of competition in the telecommunications marketplace of this state. As a consequence, customers would be deprived of the full benefits of competition.

This Authority should reject all suggestions that it do nothing while competition struggles to grow in this state. Rather than letting BellSouth set its own rules, this Authority must take affirmative steps in this arbitration to ensure that the growth of competition is not stymied.

Q. WHAT ARE THE UNEs AND UNE COMBINATIONS AT ISSUE IN THIS PROCEEDING?

A. In this proceeding, the availability of UNEs and UNE combinations arise with regard to two specific issues. First, ICG has requested that packet switching capabilities be available as UNEs. Mr. Holdridge discusses in his rebuttal testimony this particular issue and BellSouth's apparent agreement to provide these capabilities on a UNE basis.

Second, ICG has requested that BellSouth provide the enhanced extended loop ("EEL") as a UNE. Mr. Holdridge reviews ICG's need for the EEL in his rebuttal testimony. BellSouth's position is that an EEL is a "combination of loops and dedicated transport" that would "replicate end user retail or access services." Varner Direct at 14. Mr. Varner argues that BellSouth is not required to perform this combination for ICG. *Id.*, at 10.

Q. SHOULD BELLSOUTH BE REQUIRED TO PROVIDE ICG THE EEL AS A UNE?

A. Yes. The EEL simply combines two UNEs (loop and line-side transport) that are key elements in the competitive telecommunications scheme. As evidence of their centrality to the ability to compete, the local loop and transport (albeit trunk side) are two of the essential elements included in the Act's 14 point checklist. 47 U.S.C. §271. This Authority should not hesitate to mandate the EEL's combination of two of the elements most necessary to continuing competition in Tennessee.

EEL

Q. DO YOU AGREE WITH MR. VARNER THAT BELLSOUTH IS NOT REQUIRED TO PROVIDE ICG THE EEL AS A UNE BECAUSE IT COMBINES A LOOP AND DEDICATED TRANSPORT THAT REPLICATES A RETAIL SERVICE?

A. No, I do not. The U.S. Supreme Court's decision in *AT&T Corp. V. Iowa Utilities Bd.*, 119 U.S. 366 (1999), allows an entrant to purchase UNE combinations that recreate retail services at prices based on forward-looking costs.

Q. AT PAGE 10 OF HIS TESTIMONY, MR. VARNER SUGGESTS THAT BELLSOUTH MIGHT BE WILLING TO PROVIDE AN "ENHANCED EXTENDED LINK" (EEL) TO ICG PURSUANT TO "VOLUNTARY AGREEMENTS" THAT "ARE NOT SUBJECT TO THE [FEDERAL TELECOMMUNICATIONS] ACT." WHY IS THIS NOT ACCEPTABLE?

A. This approach is unacceptable because it allows BellSouth to avoid its obligations under Section 251 of the Act to provide access to unbundled network elements at cost-based rates. The enhanced extended link is an existing combination of unbundled network elements that exist within the BellSouth network. As such, BellSouth is required to provide the EEL to ICG at TELRIC based prices. BellSouth's attempt to provide the EEL outside of the requirements of the Act is a transparent attempt to levy prices for these elements that are in excess of its TELRIC based prices now being considered by the Authority.

Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?

A. Yes, it does.

BEFORE THE TENNESSEE REGULATORY AUTHORITY
Nashville, Tennessee

IN RE: PETITION OF ICG TELECOM GROUP, INC FOR ARBITRATION WITH BELLSOUTH TELECOMMUNICATIONS, INC. PURSUANT TO SECTION 252 OF THE TELECOMMUNICATIONS ACT OF 1996	)	DOCKET NO. 99-00377

REBUTTAL TESTIMONY OF PHILIP W. JENKINS ON BEHALF OF ICG TELECOM GROUP, INC.

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BEFORE THE TENNESSEE REGULATORY AUTHORITY

DOCKET NO. 99-00377

NOVEMBER 22-23, 1999

Q. ARE YOU THE PHILIP JENKINS WHO CAUSED DIRECT TESTIMONY TO BE FILED IN THIS PROCEEDING?

A. Yes, I am.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY TODAY?

A. I would like to take this opportunity to rebut the argument made by BellSouth's witness in response to ICG's petition for arbitration and related direct testimony, specifically, the binding forecast issue.

Q. HAVE YOU REVIEWED MR. VARNER'S TESTIMONY CONCERNING BINDING FORECASTS?

A. Yes.

Q. HAS THERE BEEN ANY CHANGE IN BELLSOUTH'S POSITION ON THIS ISSUE?

A. Perhaps, although it is not clear from Mr. Varner's testimony. Mr. Varner states (page 21) that "BellSouth will commit to provisioning the necessary DS-1 trunk ports when the Parties agree to the requirements of a CLEC-provided DS-1 trunk port forecast." Because BellSouth could refuse to "agree" to an ICG trunk-port forecast, Mr. Varner's statement is meaningless. Mr. Varner subsequently states (page 22) that "at this point in time, BellSouth is not offering binding forecast commitments for network services and facilities other than DS-1 trunk ports." If by this latter statement, Mr. Varner means that BellSouth will agree to include a provision in the Parties'

interconnection agreement that BellSouth will honor a binding forecast submitted by ICG for DS-1 ports, that would be a step in the right direction.

Q. ASSUMING BELLSOUTH WOULD INCLUDE SATISFACTORY LANGUAGE IN THE PARTIES' INTERCONNECTION AGREEMENT REGARDING BINDING FORECASTS FOR DS-1 PORTS, WOULD THE BELLSOUTH POSITION BE ACCEPTABLE TO ICG?

A. No, it would not. While such a position would be a step in the right direction, it would not go far enough. BellSouth does not address the need for binding forecasts for other types of trunk ports (e.g., DS-3 ports) nor does it address in any respect the need for binding forecasts for trunking facilities of any capacity. ICG sees little value in a commitment for trunk ports without a corresponding commitment to provide the trunking capacity required to link those ports.

Q. DO YOU UNDERSTAND WHY BELLSOUTH REFUSES TO AGREE TO THE BINDING FORECASTS ICG REQUESTS?

A. No. I do not understand BellSouth's reluctance to agree to ICG's request. ICG is not asking BellSouth to take any risk. ICG is willing to commit to BellSouth for a specified volume of interconnection trunks as a part of a binding forecast, whether or not ICG's traffic volume achieves the forecasted levels. If the traffic volume falls short of the forecast, ICG will pay BellSouth its full cost for the unused trunks. In other words, ICG will take all of the risk, BellSouth will assume no risk.

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes, it does.