

APPENDIX G

**Docket Number 13542-U, Generic Proceeding on
Point of Interconnection and Virtual FX Issues
Order**



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Docket No. 13542-U

SECRET # 13542
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In Re: Generic Proceeding on Point of Interconnection and Virtual FX Issues

FINAL ORDER

BY THE COMMISSION:

The Georgia Public Service Commission ("Commission") initiated this docket to consider the following two issues: whether requesting carriers have the right to designate network point or points of interconnection at any technically feasible point and whether ILECs should be permitted to impose restrictions on a CLEC's ability to assign NPA/NXX codes to the CLEC's end-users.

I.

INTRODUCTION

A. Background

In Docket No. 11901-U¹, the Commission voted to consider Issues 36 and 46 from that petition for arbitration in a generic proceeding. Issue 36 was presented in the petition for arbitration as follows:

Does [a CLEC], as the requesting carrier, have the right pursuant to the Act, the FCC's Local Competition Order, and FCC regulations, to designate the network point (or points) of interconnection at any technically feasible point?

Issue 46 involved the following dispute:

Should [an ILEC] be permitted to impose restrictions on [a CLEC's] ability to assign NPA/NXX codes to [its] end-users?

¹ Docket No. 11901-U, *Petition of MCI Metro Access Transmission Services, LLC and MCI WorldCom Communications, Inc. for Arbitration of Certain Terms and Conditions of Proposed Agreement with BellSouth Telecommunications, Inc. Concerning Interconnection and Resale Under the Telecommunications Act of 1996.*

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Both of these issues arose as well in the context of other arbitration proceedings. For purposes of consistency and administrative efficiency, the Commission decided to initiate this generic proceeding to examine both issues.

The dispute on point of interconnection relates both to which party has the right to choose the point of interconnection and which party must pay for the transport of traffic to the CLEC's switch. Under the Federal Telecommunications Act of 1996 (Federal Act), ILECs must provide to requesting carriers interconnection at any technically feasible point within their network. 47 U.S.C. §251(c)(2)(B). The FCC interpreted this section as giving CLECs the right to choose the point or points of interconnection at which to exchange traffic with ILECs.² The FCC has further stated that the Federal Act allows a CLEC to interconnect at only one technically feasible point in each LATA.³ Calls from a BellSouth customer to a CLEC customer must travel through the CLEC's point of interconnection (POI). For example, a CLEC may choose to interconnect BellSouth Telecommunication Inc.'s ("BellSouth") Atlanta LATA at a single point by placing one switch in Atlanta. If a BellSouth customer in Columbus, Georgia places a call to a Columbus customer of this CLEC, then that call would still have to be transported to the CLEC's switch in Atlanta. The parties dispute who should bear financial responsibility for the transport of such a call.

The second issue involves an end user who has a phone number associated with a particular local calling area, even though the customer is physically located outside the local calling area. Calls from within a local calling area to end users outside the local calling area, but with phone numbers associated with the local calling area, are known as Virtual foreign exchange (FX) traffic. In dispute is whether reciprocal compensation is due for Virtual FX traffic.

B. Statement of Proceedings

On March 19, 2001, the Commission issued a Procedural and Scheduling Order ("Scheduling Order") in this proceeding. The Scheduling Order set the scope of the proceeding to include the two issues discussed above. Applications and petitions to intervene were filed by BellSouth, ITC^DeltaCom Communications, Inc., Level 3 Communications, LLC ("Level 3"), Sprint Communications Company L.P. ("Sprint"), Association of Communications Enterprises, AT&T Communications of the Southern States ("AT&T"), Global NAPs, Inc. ("Global Naps"), US LEC of Georgia, Inc. ("US LEC"), XO Georgia, Inc., Focal Communications Corp., ALLTEL Georgia, Inc., ALLTEL Georgia Communications Corp., Georgia ALLTEL Telecom, Inc., Georgia Telephone Corporation, Standard Telephone Company, BroadRiver Communication Corporation ("BroadRiver"), MCI WorldCom, Inc. ("WorldCom"). No party objected to any of the interventions filed with the Commission; however, on May 1, 2001, Level 3 withdrew its application to intervene.

² *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, First Report and Order, CC Docket No. 96-98, FCC 96-325 ¶ 172 (Released August 8, 1996) ("Local Competition Order").

³ *Application by SBC Communications Inc. et. al Pursuant to Section 271 of the Telecommunications Act of 1996 to Provide In-Region, InterLATA Services in Texas*, CC Docket No. 00-65, Memorandum Opinion and Order. ¶77 (released June 30, 2000). ("Texas 271 Order").

Pre-filed direct testimony was due on April 3, 2001. BellSouth, AT&T, Global Naps, BroadRiver, Sprint and WorldCom pre-filed direct testimony. These same parties filed rebuttal testimony on April 20, 2001. US LEC filed with the Commission on April 27, 2001, a letter stating that it supported the testimony of AT&T, Global Naps, BroadRiver and Sprint. Hearings took place before the Commission on May 1 and 2, 2001. Briefs were originally scheduled to be filed on May 25, 2001. The Commission extended this filing deadline to June 5, and then later to June 8, 2001. BellSouth, AT&T, Global Naps, BroadRiver, Sprint and WorldCom filed briefs with the Commission.

BroadRiver raised the issue of whether CLECs should have the right to define applicable homing arrangements for its own NPA/NXX codes. The Scheduling Order set forth two specific issues for consideration. The issue of a CLEC's right to define homing arrangements is outside the scope of this docket, and the Commission declines to address the issue in this proceeding.

C. Jurisdiction

Under the Federal Telecommunications Act of 1996, State Commissions are authorized to set rates and pricing policies for interconnection and access to unbundled elements. In addition to its jurisdiction of this matter pursuant to Sections 251 and 252 of the Federal Act, the Commission also has general authority and jurisdiction over the subject matter of this proceeding, conferred upon the Commission by Georgia's Telecommunications and Competition Development Act of 1995 (Georgia Act), O.C.G.A. §§46-5-160 *et seq.*, and generally O.C.G.A. §§ 46-1-1 *et seq.*, 46-2-20, 46-2-21, and 46-2-23.

II. FINDINGS AND CONCLUSIONS

The Commission has before it the testimony, evidence, arguments of counsel and all appropriate matters of record enabling it to reach its decision. The Commission makes the following findings of fact, conclusions of law and statements of regulatory policy on the two issues set forth in the Commission's Scheduling Order:

Issue 1: Does [a CLEC], as the requesting carrier, have the right pursuant to the Act, the FCC's Local Competition Order, and FCC regulations, to designate the network point (or points) of interconnection at any technically feasible point?

A. Positions of the Parties

1. BellSouth

BellSouth does not contest a CLEC's right to select a single technically feasible point of interconnection for its originating traffic. BellSouth argues that a CLEC that chooses a switch outside the local calling area should bear the financial responsibility for the costs of hauling the local call outside of the local calling area in which it originated. (BellSouth Brief, p. 3). In

support of its position, BellSouth references the volume of traffic that it originates and delivers to CLECs. This traffic exceeded 49 billion minutes in 1999, and would require more than 5,500 DS3s to handle. *Id.* at 4. The considerable distance between local calling areas in the Atlanta LATA would increase the transporting costs for BellSouth. *Id.*

BellSouth contends that the Commission is not legally required to hold BellSouth financially responsible for the costs of hauling the traffic. The FCC has recently stated that it will examine the issue of who should pay to transport calls originated by an ILEC's customer to the CLEC's POI located outside the local calling area.⁴ As a compromise, BellSouth has offered to bear the cost of transporting its originating local traffic from one local calling area to a CLEC's POI in a different local calling area as long as the traffic volumes are less than a DS-3 level. (BellSouth Brief, p. 6).

2. *AT&T*

AT&T argues that FCC Rule 51.703(b) prohibits BellSouth from requiring CLECs to arrange for the transport for calls that originate on BellSouth's own network. In support of this argument, AT&T relies on *TSR Wireless, LLC, et. al., v. U.S. West*, File Nos. E-98-13, et al., FCC 00-194 (June 21, 2000) (appeal filed *sub nom, Qwest Corp. v. FCC*, Docket No. 00-1376 (D.C. Cir. Aug. 17, 2000) ("TSR Wireless"). In *TSR Wireless*, the FCC decided that ILECs should not charge paging carriers for the transport of ILEC originated traffic. ¶ 29. AT&T also cites a recent FCC decision that cautions an ILEC against reading the Texas 271 Order to change its reciprocal compensation obligations.⁵

AT&T argues that it is the more fair solution to require BellSouth to arrange for the transport of its own traffic to the CLEC's POI. AT&T's proposal is symmetrical since a CLEC must transport traffic on its network. By holding each party responsible for the design of its own network, the appropriate incentives exist to enhance efficiency and promote competition. (AT&T Brief, p. 24).

3. *BroadRiver*

BroadRiver's position is that "the originating carrier should possess the right to designate the POI for its originating traffic, provided that designation is limited to a point on the other carrier's existing, physical network at the time of the request." (BroadRiver Brief, p.3).

4. *Global Naps*

Global Naps cites the different interconnection obligations of CLECs and ILECs in the Federal Act as evidence that Congress recognized the need for regulatory assistance in promoting competition. (Global Naps Brief, p. 4). In addition to raising many of the same

⁴ Notice of Proposed Rulemaking, *In re: Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, ¶¶114-115 (released April 27, 2001) ("Intercarrier Compensation NPRM").

⁵ AT&T Brief, p. 8, citing *Joint Application by SBC Communications Inc. et al. for Provision of In-Region, InterLATA Services in Kansas and Oklahoma*, CC Docket No. 00-217, Memorandum Opinion and Order ¶ 235 (released January 22, 2001) (Kansas/Oklahoma 271 Order).

arguments raised by WorldCom and AT&T, Global Naps questions BellSouth's contention that the cost of transporting a call from a BellSouth customer to a CLEC POI outside the local calling area exceeds the amount that BellSouth recovers from the customer. First, Global Naps cites a portion of the TSR Wireless decision stating that the originating carrier recovers the costs of the facilities through the rates it charges its customers for making the calls. ¶ 34. Global Naps then references the Commission Order in Docket No. 5825-U, *Universal Access Fund, Transition to Phase II Pursuant to O.C.G.A. § 46-5-167*, that found that BellSouth's revenues from providing basic local exchange service exceed its cost of providing basic local exchange service by approximately \$219 million. (Global Naps Brief, p. 13). In addition, Global Naps argues that if the Commission allows BellSouth to charge a CLEC for any additional costs related to hauling its own traffic to a CLEC POI outside the local calling area, then the compensation to BellSouth should be limited to the difference between terminating facilities within and outside of the local calling area.

Global Naps also addresses the FCC's Intercarrier Compensation NPRM. The NPRM notes that the FCC rules currently hold the originating carrier financially responsible for hauling its traffic to the terminating carrier's POI. ¶ 70. Global Naps argues that the FCC inquired about switching to a bill-and-keep method in the context of exploring whether to change from the current obligation to pay reciprocal compensation. Thus, regardless of whether the FCC does switch to bill-and-keep, the Intercarrier Compensation NPRM clarifies that under its current rules, "if a CLEC chooses a point of interconnection outside a local calling area, the LEC is obligated to meet the CLEC there, and the CLEC is not required to locate in every local calling area or pay the ILEC transport or access charges if it does not. (Global Naps Brief, pp. 9-10).

5. *Sprint*

With two modifications, Sprint agrees with BellSouth's compromise proposal to transport its originating local traffic to a CLEC POI across local calling areas until the traffic reaches a DS3 level. The first modification is that the Commission affirm the CLEC's right to establish the initial POI for the mutual exchange of traffic. The second modification is that Sprint requests that a CLEC not be required to establish more than one POI within a local calling area. (Sprint Brief, p. 4).

6. *WorldCom*

WorldCom states that this issue involves two questions: (1) does a CLEC have the right to choose the POI for its own and BellSouth's originating traffic, and (2) is the CLEC obligated to arrange transport from a BellSouth local calling area to the POI, when the POI is located in another local calling area. WorldCom's position is that CLECs have the right to choose the POI, and that the CLEC is not obligated to transport BellSouth originating traffic. (WorldCom Brief, p. 1).

WorldCom argues that the FCC has ruled definitively that a CLEC has the right to choose the POI. In its Local Competition Order, the FCC stated that the Federal Act "allows competing carriers to choose the most efficient points at which to exchange traffic with incumbent LECs."

customers in Columbus and an Atlanta POI (Tr. 52). Based on the FCC rulings, a CLEC could choose to interconnect BellSouth's Atlanta LATA at a single point in Metropolitan Atlanta. If a BellSouth customer in Columbus were to call a Columbus customer of this CLEC, then the call would still need to be routed through the CLEC's Atlanta switch. While Columbus is in the Atlanta LATA, an Atlanta POI is outside of the Columbus local calling area. BellSouth has contended that additional costs related to providing dedicated interoffice transport are involved in hauling the traffic outside the local calling area. (Tr. 89). BellSouth has also contended that these additional costs are the result of the CLEC's decision to choose to interconnect at a single POI in the LATA. (Tr. 88-89).

Assuming a CLEC's choice to interconnect at a single point in the LATA resulted in greater transport costs than if the CLEC established a POI in each local calling area within the LATA, it still does not lead to the conclusion that the CLEC should bear the costs of transporting the traffic to the POI. To draw such a conclusion would be to argue that a CLEC should pay a price for taking advantage of its rights under the Federal Act as construed by the FCC. Stated in the converse, it is to argue that an ILEC should receive additional compensation for meeting its duty under the Federal Act. Presumably, Congress believed imposing upon ILECs the specific interconnection obligations would best accomplish the goals of the legislation. Shifting cost recovery from BellSouth to a CLEC simply because a CLEC took advantage of its rights under the Federal Act would undermine this Congressional intent. As AT&T stated in its Brief, "It is a hollow gesture to allow CLECs to designate a single point of interconnection and then require CLECs to pay the difference of the cost of that single point of interconnection and the cost of multiple points of interconnection in every BellSouth basic local calling area." (AT&T Brief, p. 23). The relevant inquiry is not whether transport costs would be less if a CLEC chose to establish additional POIs in each local calling area, but rather, whether an ILEC's duties extend to paying for the transport of local calls to a POI outside the local calling area.

FCC Rule 51.703(b) addresses who is responsible for the costs relating to traffic originating on a LEC's network.

A LEC may not assess charges on any other telecommunications carrier for local telecommunications traffic that originates on the LEC's network.

In *TSR Wireless*, the FCC explains that "[u]nder the[FCC]'s regulations, the cost of the facilities used to deliver this traffic is the originating carrier's responsibility, because these facilities are part of the originating carrier's network." ¶ 34. The general rule then is that BellSouth is prohibited from charging CLECs for hauling traffic that originated on its own network to the CLEC's POI. In order to require CLECs to bear these costs, the specifics of what BellSouth is doing must fall outside of this general obligation.

Since the issuance of the Texas 271 Order, which stated that CLECs may choose to interconnect at a single point on the ILEC's network, the FCC issued the Kansas/Oklahoma 271 Order. In the Kansas/Oklahoma Order, the FCC explicitly stated that the Texas 271 Order did not "change an incumbent LEC's reciprocal compensation obligations under [the FCC's] current rules. For example, these rules preclude an incumbent LEC from charging carriers for local

traffic that originates on the incumbent LEC's network." ¶ 238. Not only has the FCC not expressly altered an ILEC's reciprocal compensation responsibilities in the wake of its Texas 271 Order, but it has removed any potential ambiguity that the Texas 271 Order changed the prohibition on ILEC's charging carriers for local traffic that originates on its own network.

The obligation to pay for traffic originating on its own network applies, according to the terms of FCC Rule 51.703(b), to "local telecommunications traffic." If the calls in question fell outside the FCC Rule's definition of "local telecommunications traffic," then the obligation may not apply. FCC Rule 51.701(b)(1) defines "local telecommunications traffic" to mean "telecommunications traffic between a LEC and a telecommunications carrier . . . that originates and terminates within a local service area established by the state commission." In the hypothetical discussed earlier, where a BellSouth customer in Columbus calls a CLEC customer in Columbus, the call originates and terminates in the same local service area, regardless of whether it leaves the local service area to travel to the CLEC's POI. BellSouth still has the obligation to pay for the facilities to transport the call.

BellSouth makes the point that the Intercarrier Compensation NPRM is seeking comment on this issue. However, as stated above, this NPRM makes clear that the FCC rules currently require the originating carrier to bear the costs of hauling its traffic to the terminating carrier's POL ¶ 70. If the FCC alters this responsibility through the rulemaking process, this Commission will take any and all necessary and appropriate action. The Commission finds that pursuant to the Federal Act, the FCC Rules and FCC Orders, BellSouth is responsible for the costs of transporting its originating traffic to the CLEC's POI.

Separate and apart from its legal analysis, the Commission finds that holding BellSouth financially responsible for transporting its originating traffic to a CLEC's POI is a sound policy. CLECs must bear financial responsibility for their originating traffic so requiring BellSouth to do the same does not place it at a disadvantage. The difference in volume between BellSouth and an individual CLEC does not affect the fairness of the resolution because BellSouth should be recovering the costs of its facilities through the rates it charges its customers. The Commission's determination on this issue is symmetrical, fair and consistent with the Federal Act's intent to promote competition. Of course, the Commission's decision does not prohibit individual CLEC's from agreeing to BellSouth's threshold proposal should BellSouth extend such an offer.

Issue 2: Should [an ILEC] be permitted to impose restrictions on [a CLEC's] ability to assign NPA/NXX codes to [its] end-users?

A. Positions of the Parties

1. BellSouth

BellSouth states four primary reasons in its Brief in support of its position that that reciprocal compensation is not due for Virtual FX traffic, and that BellSouth should be entitled to bill the CLECs access charges for these calls. First, BellSouth argues that the originating and terminating points of FX traffic are in different local calling areas. (BellSouth Brief, p. 10).

BellSouth also points out that it does not charge CLECs reciprocal compensation for its FX service.

A recent FCC decision recently held that certain types of traffic are excluded from the reciprocal compensation requirements of the Federal Act. *In re: Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket 98-98, and *In re: Intercarrier Compensation for ISP-Bound Traffic*, CC Docket 99-68 (April 27, 2001) ("Reciprocal Compensation Order"). BellSouth argues that FX traffic is within the category of calls that the FCC excluded from the reciprocal compensation requirements. (BellSouth Brief, p. 12).

Finally, BellSouth directs the Commission's attention to the decisions of other state commissions that have considered this issue and determined that reciprocal compensation is not due for this type of traffic. Specifically, BellSouth references state commissions in Texas, Illinois, South Carolina, Kentucky and Tennessee.

BellSouth offered a compromise position on this issue. BellSouth testified that it would offer CLECs the option to treat calls within the LATA as local for purposes of interconnection and reciprocal compensation. (Tr. 184-85).

2. *AT&T*

AT&T argues that FX traffic should be rated based on the NPA-NXX assigned to the customer, rather than the physical location of the customers. This is consistent with the toll and local rating. (AT&T Brief, p. 28). AT&T states further that it does not cost BellSouth any more to terminate calls to FX-type customers. *Id.* at 29. AT&T argues that intercarrier compensation arrangements for FX-type service should be the same as the arrangements for wireless service, where the BellSouth pays reciprocal compensation for BellSouth originated traffic regardless of the physical location of the wireless customer. *Id.* at 29-30.

3. *BroadRiver*

BroadRiver states that "a CLEC must retain the unrestricted and unilateral right to assign its NPA/NXX codes to its customers." (BroadRiver Brief, p. 4). BroadRiver also states that reciprocal compensation should be due CLECs for terminating calls that originated within the same LATA as the CLEC POI, where the calls are terminated. *Id.*

4. *Global Naps*

Global Naps states that it would agree to an arrangement in which if a CLEC chooses to limit local calls for the purposes of interconnection and reciprocal compensation to calls that originate and terminate within the same BellSouth local calling area, and chooses to have access charges apply to calls between BellSouth and CLEC customers in different local calling areas, then FX traffic would be treated in accordance with these choices. (Global Naps Brief, p. 19). It should also be the CLEC's prerogative to choose to have all intraLATA circuit-switched traffic

treated as local for purposes of interconnection. If a CLEC makes this decision, then reciprocal compensation should apply for FX traffic. *Id.* at 19-20.

5. *Sprint*

Sprint's position is that an ILEC should not be allowed to restrict a CLEC's ability to assign NPA/NXX codes to its end-users. Sprint states that ILECs and CLECs should share the transport costs between the virtual POI in a local calling area and the physical POI. (Sprint Brief, p. 9).

6. *WorldCom*

WorldCom claims that BellSouth's proposal will provide BellSouth with an unfair competitive advantage. (WorldCom Brief, p. 12). WorldCom argues that the test for whether a call is local or not should be based on the originating and terminating NPA/NXXs. WorldCom states that this test is consistent with the industry standard for determining the jurisdiction of traffic. *Id.*

B. Discussion

While this issue is phrased in terms of whether BellSouth should be entitled to put restrictions on a CLEC's ability to assign NPA/NXX codes for its customers, the underlying dispute is whether reciprocal compensation should apply to Virtual FX traffic. BellSouth is not attempting to prohibit CLECs from assigning to their customers NPA/NXX codes associated with a different local calling area, but BellSouth is not willing to pay reciprocal compensation to CLECs for terminating Virtual FX traffic. This dispute turns on the question of what determines whether a call is local. If the physical location of the foreign exchange customer governs, then Virtual FX traffic is not a local call and access charges are due. If it is the end-user's phone number that dictates whether a call is local, then reciprocal compensation should be paid for FX traffic.

The first argument BellSouth raises in its Brief is that the FX traffic does not originate and terminate within the same local calling area. (BellSouth Brief, p. 10). Although questioning its relevance, no party disputed the truth of this assertion. The Georgia Act defines "local exchange services" to mean "services offered for the transmission and utilization of two-way interactive communications and associated usage with the local calling area." O.C.G.A. § 46-5-162(11). The Georgia Act defines "local interconnection services" to mean "that part of switched interconnection service provided for the purpose of originating or terminating a call which *originates and terminates within the local calling area.*" O.C.G.A. § 46-5-162(12) (emphasis added). Since Virtual FX traffic does not originate and terminate within the same local calling area, it does not meet the definition of a local interconnection service.

The Georgia Act's definitions of the terms "switched access" and "toll service" establish that access charges, not reciprocal compensation are due for Virtual FX traffic. "'Toll service' means the transmission of two-way interactive switched communications between local calling areas." O.C.G.A. § 46-5-162(19). Virtual FX traffic travels between local calling areas, and

falls within the definition of a toll service. "Switch access' means that part of switched interconnection service provided for the purpose of originating or terminating a toll service." O.C.G.A. § 46-5-162(14). As a toll service, switched access would apply to Virtual FX calls.

Determining the nature of Virtual FX traffic based on the physical location of the callers is consistent with the end-to-end analysis endorsed by the FCC. The FCC has stated that "both court and [FCC] decisions have considered the end-to-end nature of the communications more significant than the facilities used to complete such communications." *In the Matter of Teleconnect Company v. The Bell Telephone Company of Pennsylvania*, 10 FCC Rcd 1626, 1995 FCC LEXIS 966 (1995); *aff'd sub nom. Southwestern Bell Tel. Co. v. FCC*, 116 F.3d 593 (D.C. Cir. 1997); see, e.g., Declaratory Ruling in CC Docket No. 96-98 and Notice of Proposed Rulemaking in CC Docket No. 99-68, 10. Application of an end-to-end analysis to Virtual FX calls focuses on this traffic travelling between local calling areas, and leads to a conclusion that reciprocal compensation is not due for these calls.

The conclusion that access charges are due for Virtual FX is not inconsistent with the Commission's previous decisions in cases involving calls to internet service providers ("ISPs").⁷ In deciding whether the parties to interconnection agreements were obligated to pay reciprocal compensation for ISP-traffic, the Commission considered whether an ISP call involved one call or two. The Commission determined that two calls took place. The first call was the one placed by the BellSouth customer that dialed the NPA-NXX number within the same local calling area. The Commission found that this call was terminated once delivered to the telephone exchange service number. (See, e.g., Docket No. 8196-U; *In Re: Complaint of MFS Intelenet of Georgia, Inc. Against BellSouth Telecommunications, Inc., and Request for Immediate Relief*, Order Affirming and Modifying the Hearing Officer's Decision). The Commission decided that the ISP providing access to the packet-switched Internet was irrelevant to whether the first call was terminated locally. (See, e.g., Docket No. 6865-U; *In Re: Petition of MCI Metro for Arbitration of Certain Terms and Conditions of Proposed Agreement with BellSouth Telecommunications, Inc. Concerning Interconnection and Resale Under the Telecommunications Act of 1996*; Order Deciding Complaint, December 28, 1998). The Commission's determination that the call outside the local calling area was a separate call was crucial to the Commission's determination that the call from the BellSouth customer to the ISP was local. That the Commission entered into this analysis demonstrates that the physical location where the call was terminated was relevant to the whether reciprocal compensation was due.

The Commission finds that reciprocal compensation is not due for Virtual FX traffic. The Commission also finds that consistent with its own testimony in this proceeding, BellSouth should offer CLECs the option to treat intraLATA calls as local for purposes of interconnection and reciprocal compensation.

⁷ In several dockets, the Commission decided that ISP-traffic is jurisdictionally local. The FCC recently issued its *Reciprocal Compensation Order*, in which it decided that ISP-bound traffic is not subject to the reciprocal compensation obligations of 47 U.S.C. 251(b)(5). The relevance of the ISP cases to the issue in this proceeding is limited to that in both the ISP cases and this docket, the Commission considered the physical location where the call originated and terminated in its determination of whether the call constituted local traffic.

III.
ORDERING PARAGRAPHS

The Commission finds and concludes that the terms and conditions as discussed in the preceding sections of this Order should be adopted pursuant to Sections 251 and 252 of the Telecommunications Act of 1996 and Georgia's Telecommunications and Competition Development Act of 1995.

WHEREFORE, it is

ORDERED, that all findings conclusions, statements and directives made by the Commission and contained in the foregoing sections of this Order are hereby adopted as findings of fact, conclusions of law, statements of regulatory policy, and orders of this Commission.

ORDERED FURTHER, that pursuant to FCC orders, a CLEC may choose the point of interconnection, and may choose to interconnect with an incumbent's network at a single point within a LATA.

ORDERED FURTHER, that for calls that originate and terminate within the same local calling area, BellSouth is responsible for the costs of transporting its originating traffic to the CLEC's POI in the LATA, regardless of whether the CLEC's POI is in the same local calling area as the call originates and terminates.

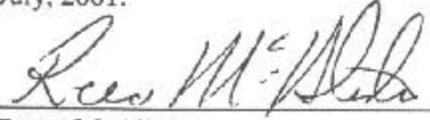
ORDERED FURTHER, that reciprocal compensation is not due for Virtual FX traffic.

ORDERED FURTHER, that BellSouth shall offer CLECs the option of treating intraLATA calls as local for purposes reciprocal compensation.

ORDERED FURTHER, that a motion for reconsideration, rehearing, or oral argument or any other motion shall not stay the effective date of this Order, unless otherwise ordered by the Commission.

ORDERED FURTHER, that jurisdiction over these matters is expressly retained for the purpose of entering such further Order or Orders as this Commission may deem just and proper.

The above by action of the Commission in Administrative Session on the 23rd day of July, 2001.



Reece McAlister
Executive Secretary

8-15-01

Date



Lauren McDonald, Jr.
Chairman

08-15-01

Date