

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Metropolitan
Fiber Systems of Florida, Inc.
for arbitration with BellSouth
Telecommunications, Inc.
concerning interconnection
rates, terms, and conditions,
pursuant to the Federal
Telecommunications Act of 1996.

DOCKET NO. 960757-TP

In re: Petition by AT&T
Communications of the Southern
States, Inc. for arbitration of
certain terms and conditions of
a proposed agreement with
BellSouth Telecommunications,
Inc. concerning interconnection
and resale under the
Telecommunications Act of 1996.

DOCKET NO. 960833-TP

In re: Petition by MCI
Telecommunications Corporation
and MCI Metro Access
Transmission Services, Inc. for
arbitration of certain terms and
conditions of a proposed
agreement with BellSouth
Telecommunications, Inc.
concerning interconnection and
resale under the
Telecommunications Act of 1996.

DOCKET NO. 960846-TP

In re: Petition by MCI Metro
Access Transmission Services,
Inc., to set non-recurring
charges for combination of
network elements with BellSouth
Telecommunications, Inc.

DOCKET NO. 971140-TP
ORDER NO. PSC-97-1583-PCO-TP
ISSUED: December 18, 1997

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

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The following Commissioners participated in the disposition of this matter:

JULIA L. JOHNSON, Chairman
J. TERRY DEASON
SUSAN F. CLARK
DIANE K. KIESLING
JOE GARCIA

ORDER SETTING MATTERS FOR HEARING

BY THE COMMISSION:

BACKGROUND

On June 28, 1996, MFS Communications Company, Inc., (MFS) filed a petition with this Commission requesting that it arbitrate various issues that were unresolved in its interconnection negotiations with BellSouth Telecommunications, Inc., (BellSouth) under the Telecommunications Act of 1996 (the Act), and Docket No. 960757-TP was opened. On December 16, 1996, we issued Order No. PSC-96-1531-FOF-TP, resolving the issues in dispute between MFS and BellSouth.

On July 17, 1996, AT&T Communications of the Southern States (AT&T) also filed a request for arbitration of issues that were unresolved in its interconnection negotiations with BellSouth under the Act, and Docket No. 960833-TP was opened. On August 15, 1996, MCI Telecommunications Corporation and MCI Metro Access Transmission Services, Inc., (MCIm) filed a request for arbitration of issues that were unresolved in its interconnection negotiations with BellSouth under the Act, and Docket No. 960846-TP was opened. The dockets were consolidated for hearing. On December 31, 1996, we issued Order No. PSC-96-1579-FOF-TP, resolving the issues in AT&T's and MCIm's petitions.

In Order No. PSC-96-1531-FOF-TP, we ordered BellSouth to file Total Services Long-run Incremental Cost studies (TSLRIC) for 2-wire ADSL compatible and 2-wire and 4-wire HDSL compatible loops. In that Order, we had only set interim rates for those elements and for physical collocation. In Order No. PSC-96-1579-FOF-TP, we set interim recurring rates for network interface devices, loop distribution, 4-wire analog ports, DA Transport-Switched Local Channel and DA Transport-Switched Dedicated Transport DS1 per mile

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and per facility. We also set interim nonrecurring rates for 4-wire analog ports, first and additional, Dedicated Transport per facility termination, DA Transport-Switched Local Channel, first and additional, and DA Transport-Switched Dedicated Transport per facility termination. In that Order, we required BellSouth to file TSLRIC cost studies for these network elements, as well as TSLRIC cost studies for physical and virtual collocation. BellSouth timely filed the required cost studies on February 14, 1997, in Docket No. 960757-TP. It timely filed the required cost studies in Docket Nos. 960833-TP and 960846-TP on March 3, 1997.

On June 9, 1997, AT&T filed a Motion to Compel Compliance with Order Nos. PSC-96-1579-FOF-TP, the order on arbitration, PSC-97-0298-FOF-TP, the order on reconsideration, and PSC-97-0600-FOF-TP, the order on the agreement. On June 23, 1997, BellSouth timely filed a Response and Memorandum in Opposition to AT&T's Motion to Compel Compliance. On October 27, 1997, MCI filed a similar Motion to Compel Compliance. On November 3, 1997, BellSouth timely filed a Response and Memorandum in Opposition to MCI's Motion to Compel Compliance.

On August 28, 1997, MCI filed a Petition to Set Non-Recurring Charges for Combinations of Network Elements, with reference to Order No. PSC-96-1579-FOF-TP. That petition was docketed as Docket No. 971140-TP. BellSouth filed a timely response in opposition to MCI's motion on September 17, 1997.

In Order No. PSC-97-1303-PCO-TP, the Prehearing Officer consolidated Docket Nos. 960833-TP, 960846-TP, and 960757-TP, as well as Docket No. 971140-TP, and the matters were set for hearing on January 26 through 28, 1998.

DECISION

We are presented with the motions of AT&T and MCI to compel the compliance of BellSouth with our orders on arbitration in these proceedings and with the parties' interconnection agreements concerning the purchase of network elements in combinations. The parties are in significant disagreement about the circumstances in which combined network elements replicate an existing BellSouth retail service and about what is the appropriate pricing mechanism in those circumstances in which there is replication. These are issues that have not been before us in this or other arbitration proceedings under the Act.

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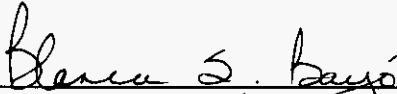
We conclude that while we are asked to determine whether the parties' interconnection agreements contain pricing mechanisms for network element combinations, we shall not decide these questions without receiving and considering testimony and argument from the parties. Hence, we find it appropriate to set the matter of whether we should or should not compel BellSouth's compliance as herein moved by AT&T and MCI for hearing at the earliest feasible time. Furthermore, we find it appropriate to reset the hearing on MCI's petition in Docket No. 971140-TP for the same time.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that the AT&T and MCI Motions to Compel Compliance shall be set for hearing at the earliest feasible time. It is further

ORDERED that MCI's petition in Docket No. 971140-TP shall be set for the same hearing as the AT&T and MCI Motions to Compel Compliance.

By ORDER of the Florida Public Service Commission, this 18th day of December, 1997.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

CJP

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: 1) reconsideration within 10 days pursuant to Rule 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; 2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or 3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.