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August 13, 1996

Ms. Blanca S. Bayó
Director, Records & Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket [REDACTED]

960833-TP

Dear Ms. Bayó:

On behalf of MCI Telecommunications Corporation (MCI) I have enclosed for filing in the above docket the original and 15 copies of MCI's Motion to Establish Procedure for "Mediation Plus" and Request for Expedited Ruling.

By copy of this letter this document has been provided to the parties on the attached service list.

Very truly yours,

Richard D. Melson

Richard D. Melson

RDM/cc
Enclosures
cc: Parties of Record

ACK ✓
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FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by MCI for)	
arbitration of certain terms and)	Docket No. 960846-TP
conditions of a proposed agreement with)	
BellSouth Telecommunications, Inc.)	
concerning interconnection and resale)	Filed: August 13, 1996
under the Telecommunications Act of)	
1996)	

MCI's MOTION TO ESTABLISH PROCEDURE FOR "MEDIATION PLUS" AND REQUEST FOR EXPEDITED RULING

MCI Telecommunications Corporation, on behalf of itself and its affiliates, including MCImetro Access Transmission Services, Inc. (collectively, "MCI") hereby moves the Commission to establish a Mediation Plus procedure for the arbitration of a set of technical, operational, and administrative issues on which MCI believes that it and BellSouth may be able to reach a negotiated agreement without an arbitrated decision by the Commission.

Because the disposition of this motion will affect the scope of the direct testimony filed by MCI and BellSouth in this proceeding, MCI respectfully requests an expedited ruling on this motion.

1. MCI presently expects to file its petition pursuant to Section 252(d) of the Telecommunications Act of 1996 (Act) for arbitration of unresolved issues between itself and BellSouth on August 15, 1996. Although negotiations continue, there are many issues on which the parties have not yet reached agreement.

2. The unresolved issues include a number of major issues, such as the menu of network elements to be unbundled, the price

of unbundled elements, the scope of services that must be available for resale, and the appropriate wholesale price level for resold services. Unless BellSouth's position on some of these items changes as a result of the FCC's recent order, these issues will clearly need to be litigated and resolved by the Commission.¹

3. The unresolved issues also include numerous other technical, operational, and administrative issues.² BellSouth and MCI have reached tentative agreement or agreement in principle on some of these other issues, but those agreements have not been fleshed-out in detail nor incorporated into specific contractual language. At this time, MCI must therefore treat them as unresolved within the meaning of the Act. MCI is optimistic that with the proper Commission-mandated and supervised mechanism in place, many of these items can still be resolved by negotiations, without the necessity for resolution by the Commission.

4. Nevertheless, because of the potentially inflexible arbitration provisions and timetables contained in Act, MCI intends to request arbitration of all unresolved issues, including those identified for Mediation Plus, in order to

¹ In large part, these are also issues on which BellSouth and AT&T have failed to reach agreement.

² These include issues such as the provision of support for intercompany 64kbps clear channel signalling, the reporting to MCI of all ALIT/SLIT (Auto/Subscriber Line Test) failures that occur on MCI's customers' lines, and the details of arrangements for billing resold BellSouth services.

preserve its right to obtain a final arbitrated Commission decision within the federal statutory time frame.

5. The Act does not dictate the specific procedures to be followed by state commissions in conducting arbitration proceedings, but instead leaves wide discretion to the states. The procedures that the Commission has established for this docket are well-suited to the resolution of the major issues. The application of those procedures to the multitude all of the other technical, operational and administrative issues, however, could result in overburdening the Commission with detailed issues that may yet be capable of negotiated settlement by the parties.

6. MCI therefore proposes that the Commission establish a Mediation Plus procedure to be followed as part of the overall arbitration process. Under Mediation Plus, the Commission would:

(a) accept all issues for arbitration, but bifurcate the proceeding and refer certain issues to a separate portion of the docket to be resolved through a Mediation Plus procedure;

(b) direct the parties to continue to negotiate these detailed technical, operational and administrative issues with the assistance of a mediator, preferably a member of the Commission staff,

(c) establish milestones for written progress reports to the Commission and a firm deadline for the conclusion of those negotiations,

(d) require the parties to file with the Commission for approval any agreement that results from the negotiations, and

(e) arbitrate and decide, by the 9-month deadline (December 26) applicable to MCI/BellSouth, any detailed technical and operational issues which the parties do not resolve through Mediation Plus.

7. Under Mediation Plus, MCI proposes that the current hearing schedule be used to address the major issues which will clearly require Commission resolution.³ For the technical, operational and administrative issues identified in MCI's petition for arbitration as Mediation Plus issues, MCI requests that the Commission:

(a) establish an October 18, 1996 deadline for the conclusion of the Mediation Plus negotiations, together with a series of earlier progress reporting dates;

(b) establish an October 25, 1996 deadline for the parties to file with the Commission any agreement that results from the negotiations, together with supplemental testimony addressing any issues that remain unresolved; and

(c) schedule an additional hearing date or dates in early November to consider these issues on a schedule which is consistent with a final decision by the December 26, 1996 federal deadline.

Because the issues that will be identified for Mediation Plus are generally more detailed than the issues that AT&T has

³ Since the bulk of these issues are common to the MCI and AT&T arbitrations, they can be disposed on the current schedule, which calls for a decision by the 9-month deadline (December 3) applicable to AT&T.

submitted for arbitration, the use of the Mediation Plus procedure to attempt to resolve these MCI-specific issues should have no effect on the consolidation of the MCI and AT&T proceedings.

8. MCI believes that this bifurcated, parallel path procedure -- a typical Commission hearing on the major issues together with Commission-supervised mediation followed, if necessary, by a typical Commission hearing on the other unresolved issues -- is the most efficient way to resolve the numerous issues that MCI anticipates will be submitted for arbitration.

9. The Commission's decision on MCI's Mediation Plus proposal will dictate the scope of the initial direct testimony to be filed by MCI and BellSouth. It is therefore essential that the Commission consider this motion on an expedited basis. To facilitate BellSouth's response, a copy of this motion is being delivered by facsimile to BellSouth's counsel in Atlanta, and by hand delivery to its regulatory office in Tallahassee, concurrent with its filing with the Commission.

WHEREFORE, MCI moves that the Commission, on an expedited basis, approve the Mediation Plus proposal set out above.

RESPECTFULLY SUBMITTED this 13th day of August, 1996.

HOPPING GREEN SAMS & SMITH, P.A.

By: Richard D. Melson
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(904) 425-2313

and

MARTHA MCMILLIN
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780 Johnson Ferry Road
Atlanta, GA 30342

ATTORNEYS FOR MCI

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was furnished to the following parties by hand delivery and by facsimile to Nancy White at (404) 614-4054 this 13th day of August, 1996.

Donna Canzano
Division of Legal Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399

Nancy White
c/o Nancy Sims
BellSouth Telecommunications
150 S. Monroe Street, Suite 400
Tallahassee, FL 32301

Tracy Hatch
AT&T
101 N. Monroe St., Suite 700
Tallahassee, FL 32301

Richard D. [Signature]

Attorney