

960846-TP

ORIGINAL COPY

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BELLSOUTH TELECOMMUNICATIONS, INC.
REBUTTAL TESTIMONY OF ROBERT C. SCHEYE
BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
DOCKET NO. 960846-TP
SEPTEMBER 16, 1996

Q. PLEASE STATE YOUR NAME, ADDRESS AND POSITION WITH BELLSOUTH TELECOMMUNICATIONS, INC. (HEREINAFTER REFERRED TO AS "BELLSOUTH" OR "THE COMPANY").

A. My name is Robert C. Scheye and I am employed by BellSouth as a Senior Director in Strategic Management. My business address is 675 West Peachtree Street, Atlanta, Georgia 30375.

Q. HAVE YOU PREVIOUSLY FILED TESTIMONY IN THIS DOCKET?

A. Yes. I filed direct testimony on behalf of BellSouth on September 9, 1996.

Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

A. The purpose of my testimony is to address the positions taken by MCI witness Don Price, in his Direct and Additional Direct testimonies, on the issues in this arbitration proceeding.

DOCUMENT NUMBER-DATE
960846 SEP 16 1996
FPSC-RECORDS/REPORTING

1 Q. ARE THERE ANY ISSUES THAT THE PARTIES AGREE ARE NO
2 LONGER APPROPRIATE FOR THIS ARBITRATION PROCEEDING?

3

4 A. It is my understanding that MCI and BellSouth Advertising & Publishing
5 Corporation ("BAPCO") have reached agreement concerning any and all
6 directory issues raised in MCI's Petition, other than MCI's request to place its
7 customized cover on directories published by BAPCO. As I stated in my
8 direct testimony, however, the issue of customized covers is not appropriate for
9 arbitration. Where directory publishing is concerned, MCI should continue to
10 negotiate with BAPCO because BAPCO is the appropriate contracting party.
11 Further, this issue is not subject to arbitration under Section 251 of the
12 Telecommunications Act of 1996 (hereinafter referred to as "the Act"). The
13 Act requires inclusion of subscriber listings in white page directories, but does
14 not have any requirements regarding customized directory covers.

15

16 Q. HAS BELLSOUTH PROVIDED A LIST OF ISSUES WHICH SHOULD BE
17 ARBITRATED?

18

19 A. Yes. BellSouth responded to the MCI list of issues by providing an exhibit
20 (RCS-1) to my direct testimony. BellSouth's exhibit provided a clear
21 indication of the issues to be resolved and the issues that remain unresolved,
22 and, therefore, need to be arbitrated.

23

24 Q. MR. PRICE, ON PAGE 3 OF HIS DIRECT TESTIMONY, REFERS TO THE
25 ANNOTATED TERM SHEET (EXHIBIT 3 OF MCI'S PETITION FOR

1 ARBITRATION) AS A LIST OF THE ISSUES TO BE ARBITRATED. IS
2 THE ANNOTATED TERM SHEET PROVIDED BY MCI AN
3 APPROPRIATE LIST OF ISSUES TO BE ARBITRATED?
4

5 A. Absolutely not. The list contains hundreds of sub items and operational issues
6 that are not subject to arbitration, yet MCI petitions that every item be
7 arbitrated. Even MCI's witness, Mr. Farmer, points out on page 7, lines 10 -
8 14, of his testimony, that "[p]arity -- in the FCC context of being at least equal
9 in quality -- can only be measured in terms of detailed technical standards,
10 interfaces, and performance measures (such as installation intervals,
11 maintenance and repair times) that are better addressed in mediated
12 negotiations or industry forums than in contested hearings." As I indicated in
13 my previous testimony, with the denial of their request for Mediation Plus,
14 MCI is now attempting to bog down the arbitration proceeding until each
15 technical detail, many of which they recognize are agreed upon in principle in
16 their terms sheet, is somehow waded through in this proceeding and codified
17 into an order.

18
19 Q. MR. PRICE INDICATES, ON PAGE 4 OF HIS TESTIMONY, THAT THE
20 TWO YEAR INTERIM AGREEMENT PROVIDES A BASIS FOR THE
21 RESURFACING OF ALL OF THESE ITEMS. IS THIS CORRECT?
22

23 A. No. At the time the Partial Agreement was being negotiated, both Florida and
24 Tennessee had proceedings underway on the interconnection issues. MCI
25 wanted to continue its participation in these proceedings and the language of

1 Section II B of the partial agreement was developed. BellSouth was aware that
2 MCI could, and most likely would, be filing for arbitration in several states
3 beyond Florida and Tennessee, e.g., North Carolina, Georgia, and Kentucky.
4 The only unique characteristic was that Florida and Tennessee had ongoing
5 state interconnection and unbundling proceedings. Therefore, Section II B of
6 the Partial Agreement is not relevant to arbitration.

7

8 **RESALE**

9

10 Q. MR. PRICE, ON PAGE 9, OF HIS DIRECT TESTIMONY, DISCUSSES
11 ADJUSTMENTS, BASED ON THE FCC ORDER, TO SUPPORT THE
12 DEVELOPMENT OF A WHOLESALE DISCOUNT OF 25.38% BY MCI.
13 DOES THE ORDER ALLOW THIS?

14

15 A. Mr. Price cites the FCC Order (paragraph 910) as the basis for the state to
16 select avoided cost methodologies beyond the minimum criteria put forth by
17 the FCC to determine wholesale rates. Using that basis MCI developed their
18 version of a wholesale discount. The correct cite he is quoting, however, is
19 actually paragraph 909 which does give the states the latitude to make
20 adjustments. However, the Order goes on in the same paragraph to state that
21 "...for example, our rules for identifying avoided costs by USOA expense
22 account are cast as rebuttable presumptions, and we do not adopt as
23 presumptively correct any avoided cost model." (Emphasis added) Mr. Reid
24 will provide more detail in his rebuttal.

25

1 Q. MR. PRICE, ON PAGE 11, STATES THAT ALL RETAIL SERVICES
2 SHOULD BE AVAILABLE FOR RESALE AT A DISCOUNT. DO YOU
3 AGREE?

4
5 A. For the most part, BellSouth does agree. However, there are several, narrowly
6 defined services that BellSouth believes should be excluded from the resale
7 requirement. These are identified in my direct testimony. Mr. Price cites the
8 FCC Order, paragraphs 898 - 906, as the basis of state activity identifying
9 services available for resale and the need for unrestricted resale. This cite is
10 also incorrect. Those paragraphs discuss state activity in examining potential
11 wholesale discounts and do not discuss services or restrictions. However, in
12 paragraphs 935 - 968, the Order does discuss narrowly defined exceptions to
13 unrestricted resale that support the conclusions outlined in my direct testimony.

14
15 Q. MR. PRICE DOES ALLOW FOR LIMITED EXCEPTIONS TO RESALE
16 ON PAGE 13 OF HIS DIRECT TESTIMONY. DOESN'T THIS SUPPORT
17 BELL SOUTH'S CONCLUSION?

18
19 A. Not entirely. Mr. Price states that resale of flat rate residential service could be
20 limited to residential customers. BellSouth does not agree that resale of **flat**
21 **rate residential** service should be limited to residential customers. The Order
22 explicitly states, in paragraph 962, that the Act permits states to prohibit
23 resellers from selling residential services to customers ineligible to subscribe to
24 such services from the incumbent Local Exchanger Carrier (LEC). It does not
25 limit this cross class of service restriction to only flat rate services. Allowing

1 MCI to purchase a residential measured/message line, with a wholesale
2 discount, and to resell it to its preferred business customers would have a
3 deleterious effect on the pricing practices put forth by this Commission to
4 obtain social objectives. BellSouth also disagrees that any other use or user
5 restrictions would limit MCI's ability to compete.

6

7 Q. PLEASE COMMENT ON THIS FURTHER?

8

9 A. MCI is requesting that BellSouth provide Contract Service Arrangements at a
10 discount. Contract Service Arrangements ("CSAs") are utilized to respond to
11 specific competitive threats on a customer-by-customer basis and contain rates
12 established specifically for each competitive situation. It is completely
13 illogical for BellSouth to develop a customer-specific proposal containing non-
14 tariffed rates, only to have MCI walk in, purchase the proposal from BellSouth
15 at a discount, and offer the same proposal to the customer at a slightly lower
16 price than BellSouth had developed. Elimination of this restriction, as
17 proposed by MCI, effectively takes BellSouth out of the game. As with
18 obsoleted/grandfathered services, if MCI wishes to entice the customer to
19 select MCI in lieu of BellSouth, MCI can purchase the necessary service(s)
20 included in the CSA to meet the customer's needs from BellSouth at the
21 wholesale rate and resell the service(s) alone or add additional value by
22 including other options or offerings.

23

24 Q. PLEASE IDENTIFY THE OTHER SERVICES THAT BELLSOUTH
25 PROPOSES TO EXCLUDE FROM RESALE AND PROVIDE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

JUSTIFICATION FOR SUCH EXCLUSIONS.

A. As included in my direct testimony, besides CSAs, the following restrictions are also narrowly tailored, just, reasonable, and non-discriminatory:

Obsoleted/Grandfathered Services are no longer available for sale to, or transfer between, end users, nor should they be transferable between providers. The Company has made available new services to replace the existing services. To the extent that MCI or any other competitor wishes to entice the customer of a grandfathered service to change providers, it may do so by either reselling the replacement service at a discount or by providing its own new service to the customer through the purchase of unbundled network elements combined with its own facilities. BellSouth does not agree with the FCC's conclusion on this issue and believes this restriction is reasonable and nondiscriminatory, permissible by the FCC's Order, and should be approved by this Commission.

Promotions are not retail services. In most instances, they are simply limited time waivers of nonrecurring charges. It would be completely illogical for BellSouth to run promotions to attract customers, only to be required to give MCI the same limited time waiver for nonrecurring charges, in addition to the already discounted wholesale monthly recurring rate, so that MCI can attract customers. In effect, BellSouth would be subsidizing MCI's marketing program. If MCI wishes to conduct promotions, its stockholders should have to bear the consequences just as BellSouth's do. Competitive advantage should be earned in the marketplace, not given through an inappropriate resale

1 requirement or discount. The FCC Order agrees with BellSouth's position and
2 allows promotions used for 90 days or less and not in a continuous manner to be
3 restricted from resale.

4
5 **LinkUp and Lifeline** are subsidy programs designed to assist low income
6 residential customers by providing a monthly credit on recurring charges and a
7 discount on nonrecurring charges for basic telephone service. If MCI, or any
8 other competitor, wishes to provide similar programs through resale, they
9 should be required to purchase BellSouth's standard basic residence service,
10 resell it at an appropriate rate, and apply for and receive certification from the
11 appropriate agency to receive whatever funds may be available to assist in
12 funding its subsidy program. The FCC Order recognizes this issue and allows
13 resale restrictions to be placed upon services for which other subscribers would
14 be ineligible.

15
16 **N11 services**, including 911 and E911, are not retail services provided to end
17 users. BellSouth provides N11 services to other companies or government
18 entities who in turn provide the actual service to end user customers. Thus,
19 BellSouth should not be required to offer these services for resale.

20
21 MCI has also raised a question concerning the resale of Public (Pay Telephone)
22 Access Line Service, and service offerings that include volume or term pricing
23 (beyond contract service arrangements). Whether it be through negotiations or
24 arbitrations, both parties need to try to achieve a balanced approach. In light of
25 the FCC's Order and MCI's request, BellSouth believes that a balanced

1 outcome to the issue of resale service limitations would be to allow the
2 limitations BellSouth has described herein, but allow the resale of Public
3 Access Lines (with the caveat that they be used for its intended class of
4 service) and any generally available retail offering with term or volume
5 pricing.

6

7 **BRANDING**

8

9 Q. MR. PRICE'S DIRECT TESTIMONY, ON PAGE 16, REQUESTS THAT
10 BRANDING BE MADE AVAILABLE AT ALL POINTS OF CUSTOMER
11 CONTACT AND THAT BELLSOUTH BE BARRED FROM
12 UNREASONABLY INTERFERING WITH SUCH BRANDING. IS
13 BELLSOUTH INTERFERING WITH MCI IN ITS ATTEMPTS TO BRAND
14 SERVICES?

15

16 A. Absolutely not. The branding issue, surfaced in the petition and in Mr. Price's
17 testimony, is being held out as an item ordered by the FCC and critical to the
18 success of the reseller to successfully compete. Mr. Price cites paragraph 971
19 of the FCC's Order as the basis for this argument. While paragraph 971 does
20 discuss branding, and the FCC points out the critical nature of branding, it also
21 indicates that this presumption may be rebutted by the LEC proving to the state
22 commission that it lacks the capability to comply. As pointed out in Mr.
23 Milner's testimony, BellSouth cannot route resold services to MCI's operator,
24 call completion service or directory assistance service with the dialing of the
25 same string of digits as a BellSouth customer dials. To do so requires the

1 creation of a new service. BellSouth is not required by the Act or by the Order
2 to create such a service. Furthermore, the paragraph cited by Mr. Price limits
3 the branding to operator, call completion service or directory assistance
4 services and does not indicate all the points of contact that MCI is seeking.

5
6 Beyond the technical feasibility issue, there is a question of how significant the
7 branding issue truly is. While carriers have raised this issue in terms of the
8 competitive marketplace, unbranding (where no one brand is associated with
9 the service) may be equally appropriate. For example, BellSouth does not
10 typically brand calls to its directory assistance bureau or operator services
11 positions. While it may be argued by some that this is atypical behavior, one
12 need only observe MCI's own practices. 1-800-COLLECT is a heavily
13 advertised service and presumably a fairly successful service. Ads for 1-800-
14 COLLECT are typically unbranded; calls to a 1-800-COLLECT operator will
15 not necessarily reveal that this is an MCI product. If branding is a competitive
16 tool, it is apparent that unbranding is also.

17
18 Further, in response to any concerns over the "confusion" that may occur if
19 customers have to dial different numbers, one only needs to look at MCI's own
20 marketing practices. As I stated on page 26 of my direct testimony, MCI
21 seems to have little concern over instructing their current long distance
22 customers in the dialing of 26 extra digits and listening to various chimes to
23 place a call.

24

25 **ANCILLARY ISSUES**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Q. WHAT RELIEF SHOULD THIS COMMISSION PROVIDE MCI REGARDING COST RECOVERY OF INTERIM LOCAL NUMBER PORTABILITY (PAGE 5, MR. PRICE'S ADDITIONAL DIRECT TESTIMONY)?

A. None. The issue of cost recovery for interim local number portability is included in the BellSouth/MCI Partial Agreement, Exhibit 2 of MCI's Petition for Arbitration, and as such should not be subject to arbitration. As is clearly indicated by the language of the Partial Agreement, the rates for interim local number portability have been established and are not to be arbitrated. Further, any aspects of the FCC's Second Order that need to be decided will require input from parties beyond those in this proceeding.

Q. WITH RESPECT TO DIRECTORY ASSISTANCE AND OPERATOR SERVICES, HAS BELLSOUTH REFUSED TO PROVIDE ANY OF THE CAPABILITIES REQUESTED BY MCI RELATED TO SERVICE PARITY (PAGE 11-17, MR. PRICE'S ADDITIONAL DIRECT TESTIMONY)?

A. BellSouth has only refused to provide direct routing from resold BellSouth services to MCI's Operator Services and Directory Assistance Services platforms using the same digits that route to BellSouth's operators. On all the other requests made by MCI related to service parity, BellSouth has offered what it believes are reasonable solutions to MCI's requests. As indicated in MCI's attached terms sheet, most items are already agreed to in principle by

1 both parties. To re-emphasize, however, these issues are not subject to
2 arbitration under the Act, and should be negotiated between the parties after the
3 major issues are arbitrated.

4

5 Q. YOU INDICATED THAT BELLSOUTH HAD REFUSED TO PROVIDE
6 DIRECT ROUTING TO CERTAIN MCI PLATFORMS. WHY?

7

8 A. Very simply, because not only is such routing not required by the Act, more
9 importantly, it is not technically feasible as explained by Mr. Milner in his
10 direct testimony. MCI is requesting that BellSouth create and offer a new basic
11 exchange local retail service that does not include access to BellSouth's
12 Operator Services or its Directory Assistance Services and make it available
13 for resale. The Act requires that BellSouth make its retail services available
14 for resale. The Act does not require BellSouth to offer its retail services
15 "without capabilities dictated by the purchaser" or that BellSouth create new
16 retail services. If MCI wishes to offer a unique basic local exchange service
17 that includes direct access to its platforms, MCI can purchase unbundled
18 network elements from BellSouth and combine them with its own platforms.

19

20 Dialing parity has a very specific meaning in terms of local competition: a
21 customer of MCI or any other competitor shall not have to dial any more digits
22 when placing a local call than the customer had to dial when placing a local
23 call as a customer of BellSouth. Dialing parity does not mean that an MCI
24 customer should be able to dial the same string (page 11, line 13, Price's
25 Additional Direct Testimony) to reach MCI's Directory Services and Operator

1 Services platforms as the customer dials to reach BellSouth's platforms. It is
2 MCI's responsibility to set up its own telephone numbers to support its
3 offering of these services, as well as unique telephone numbers for other
4 customer support operations such as repair bureaus.

5

6 Q. WHAT ISSUES PERTAINING TO DIALING PARITY SHOULD BE
7 RESOLVED BY THIS COMMISSION AS PART OF THESE
8 ARBITRATION PROCEEDINGS (PAGE 10, MR. PRICE'S ADDITIONAL
9 DIRECT TESTIMONY)?

10

11 A. None. This issue, like several others raised by MCI, is a result of an FCC
12 Order, not the result of an inability to agree in negotiations. Clearly, if the
13 issue of cost recovery for dialing parity is to be resolved, this Commission will
14 require input from parties other than BellSouth and MCI. As such, this issue
15 should be dismissed for the purposes of this proceeding and raised, if
16 necessary, in a proceeding open to all affected or interested parties.

17

18 Q. WHAT ARE THE ISSUES PERTAINING TO EMERGENCY (911)
19 SERVICE TO BE RESOLVED IN THIS PROCEEDING (PAGE 24, MR.
20 PRICE'S ADDITIONAL DIRECT TESTIMONY)?

21

22 A. None. 911 service was covered in the Partial Agreement, Exhibit 2 of MCI's
23 Petition for Arbitration, entered into by BellSouth and MCImetro. This
24 Commission should not waste resources arbitrating issues that have been
25 agreed upon.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Furthermore, of the issues raised by Mr. Price, MCI admits in its term sheets, Exhibit 3 of MCI's Petition for Arbitration, that the parties agree in principle to trunking, signaling, and routing. Access to any mechanized system to edit the Master Street Address Guide, is not listed in MCI's petition. However, the parties, as I understand it, have agreed in principle to provide access to Automatic Location Identification (ALI) so that MCI can update and maintain its database. In Item 2, restoration level, BellSouth has requested MCI to explain why it needs this item "without the imposition of Telecommunication Service Priority".

Q. WHAT IS THE NEED FOR A PROCESS BY WHICH MCI CAN REQUEST FURTHER UNBUNDLING OF BELL SOUTH'S NETWORK (PAGE 28, MR. PRICE'S ADDITIONAL DIRECT TESTIMONY)?

A. This request, as are many of MCI's requests, is outside the scope of this proceeding. The purpose of arbitration is to resolve issues that cannot be negotiated. It is not to develop new policy and procedures. Should MCI wish to pursue such a development of a process it should do so through normal Commission procedures. However, as I stated in my direct testimony, BellSouth anticipates providing unbundled network elements consistent with the requirements of the Act. This includes providing elements that are technically feasible and implementing a bonafide request process for additional items.

1 Q. DOES THIS CONCLUDE YOUR TESTIMONY?
2
3 A. Yes.
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25