HOPPING GREEN SAMS & SMITH
PROFESSIONAL ASSOCIATION
ATTORNEYS AND COUNSELORS
123 SOUTH CALHOUN STREET
POST OFFICE BOX 6526
TALLAHASSEE, FLORIDA 32314
(904) 222-7500
FAX (904) 224-8551
FAX (904) 425-3415

Writer's Direct Dial No.
(904) 425-2313

August 20, 1997

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

Re: Dockets 970281-TL, 970172-TL, 970173-TL

Dear Ms. Bayó:

Enclosed for filing in the above docket(s) on behalf of MCI Telecommunications Corporation are the original and 15 copies of MCI's posthearing brief, together with a WordPerfect 5.1 disk.

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

Very truly yours,

Richard D. Melson

RDM/cc
Enclosures
cc: Service List

99173.1

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Establishment of intrastate implementation requirements governing federally mandated deregulation of local exchange company payphones	Docket No. 970281-TL
In re: Petition by MCI Telecommunications Corporation for an order requiring BellSouth Telecommunications, Inc. to remove its deregulated payphone investment and associated expenses from its intrastate operations and reduce the Carrier Common Line Rate Element of its intrastate switched access charges	Docket No. 970172-TP
In re: Petition by MCI Telecommunications Corporation for an order requiring GTE Florida, Incorporated to remove its deregulated payphone investment and associated expenses from its intrastate operations and reduce the Carrier Common Line Rate Element of its intrastate switched access charges	Docket No. 970173-TP Filed: August 20, 1997

MCI'S POSTHEARING BRIEF

MCI Telecommunications Corporation (MCI) hereby files its posthearing brief.

SUMMARY

The FCC's Payphone Order requires the Florida Public Service Commission to determine what intrastate rate elements must be reduced to eliminate any intrastate payphone subsidies. The Commission should direct BellSouth to remove the entire amount of its payphone subsidy from the intrastate carrier common line (CCL) charge.

ISSUE-BY-ISSUE ANALYSIS

Issue 1. What is the amount of intrastate payphone subsidy, if any, that needs to be eliminated by each local exchange company pursuant to Section 276(B)(1)(b) of the Telecommunications Act of 1996?

MCI: According to BellSouth's study, the amount of the intrastate payphone subsidy in BellSouth's rates is $6,501,000. The amount of the subsidy would be $7,502,000 if BellSouth had calculated set expense and line expense on a consistent basis.

BellSouth admits that the amount of the intrastate payphone subsidy in its rates is $6,501,000. (Lohman, T 23; Ex. 4 at 12; Ex. 5) BellSouth calculates this amount using two different methodologies. (Lohman, T 73) For purposes of calculating the subsidy associated with payphone sets, BellSouth relies on set expense data from its ARMIS reports. (Lohman, T 69) For purposes of calculating the subsidy associated with payphone lines, BellSouth relies on line expense data from an updated 1993 vintage study of its SmartRing service. (Lohman, T 66-68)

If the calculation for both components had been calculated on a consistent basis, using ARMIS data for line expense as well as for set expense, the calculated subsidy would increase by just over $1 million to $7,502,000. (Lohman, T 76)

Issue 2. If an intrastate payphone subsidy is identified in Issue 1, do the FCC's Payphone Reclassification Orders require the Florida Public Service Commission to specify which rate element(s) should be reduced to eliminate such subsidy?

<u>MCI</u>: Yes.

The FCC's Report and Order (FCC 96-388) issued September 20, 1996 in CC Docket No. 96-128 ("FCC Payphone Order") requires the Commission to specify which rate element(s) are to be reduced to eliminate the subsidy (Reid, T 145-146):

> States must determine the intrastate rate elements that must be removed to eliminate any intrastate subsidies. . .
>
> (FCC 96-388, ¶ 186)

To date, the Commission has not made the required determination. The PAA Order issued in this docket explicitly *refrained* from specifying the rate elements to be removed, instead leaving the choice solely to the local exchange companies:

> We will not specify particular services or elements where LECs may make rate reductions. The LEC should have discretion regarding which tariff elements are reduced and need only demonstrate via a price-out that the revenue reduction eliminates the subsidy.
>
> (Order No. PSC-97-0358-FOF-TP, page 6)

In light of this PAA Order, there is no merit to the position (Lohman, T 25-28) that by permitting BellSouth's business hunting rate reduction tariff to take effect, the Commission thereby "determined" the rate element to be reduced. (Reid, T 150) While the Commission may have been aware of

BellSouth's intention to reduce business hunting rates at the time the PAA Order was issued, nothing in that Order required BellSouth to reduce that rate, and nothing constituted a determination that the business hunting rate -- or any other rate element -- was the appropriate element to be reduced.[1] Instead, the PAA Order delegated absolute discretion to the local exchange companies to determine what element should be reduced. (See Reid, T 151-152) That delegation violates the requirements of the FCC Payphone Order.

Staff's cross-examination of Ms. Reid suggests that the staff may be considering the option of specifying a limited menu of rate elements to be reduced, from which BellSouth could make the final choice. (See T 160-161) MCI submits that this approach would likewise violate the FCC Payphone Order unless the Commission removed all discretion from BellSouth by specifying the portion of the payphone subsidy to be removed from each rate element identified for reduction.

<u>Issue 3</u>. If an intrastate payphone subsidy is identified in Issue 1, what is the appropriate rate element(s) to be reduced to eliminate such subsidy?

<u>MCI</u>: The carrier common line (CCL) charge is the appropriate rate element to be reduced to eliminate the payphone subsidy.

---

[1] While questioning by counsel for BellSouth also created the impression that the Commission affirmatively voted to approve BellSouth's hunting reduction tariff (T. 151), in fact the PAA Order does not reflect such a decision by the Commission.

In determining the appropriate rate elements to be reduced to eliminate the intrastate payphone subsidy, the Commission should consider a number of factors. Each of these factors favors reducing the carrier common line (CCL) component of switched access charges:

(1) Is the element priced substantially in excess of cost? The Commission has long recognized that switched access charges are priced substantially in excess of cost. (Reid, T 147, 153; Guedel, T 96; Lohman, T 48) In fact, BellSouth's mark-up on switched access charges is greater than the mark-up on any of its other major revenue-producing services. (Guedel, T 94-95, 113) The CCL component of access charges is not cost-based and represents pure contribution or subsidy, since the incremental cost of providing the CCL is zero. (Guedel, T 95-96)

(2) Is the price for the element to be reduced likely to fall in response to competitive market forces? (Reid, T 159) End user rates, including rates for business services, will feel the effects of competitive pressure more quickly than rates for switched access charges, particularly terminating switched access charges. (Guedel, T 103-104)

The 1995 revisions to Chapter 364, and BellSouth's subsequent election of price regulation, gives BellSouth the necessary flexibility to adjust its rates to respond to market forces. (Guedel, T 101-102) There is no need for the Commission to grant BellSouth additional flexibility by giving it a "costfree" way to reduce rates for competitive services. (Reid, T 147; Guedel, T 98)

Instead, in the few situations where the Commission still has some control over BellSouth's rates and its disposition of excess funds, the Commission should use the opportunity to reduce rates which are acknowledged to be greatly in excess of cost, but which are relatively immune from competitive market pressures. (Guedel, T 97, 102, see 119-120)

(3) Does the revenue stream to be reduced bear some logical relationship to the various revenue streams which can flow from a payphone? Access charges are one of the revenue streams produced by a payphone, and thus bear some logical relationship to the payphone subsidy. (Reid, T 146, 157-159) In contrast, business hunting rates have no relationship to payphone revenues. (Reid, T 147, 160)

The only rationale that BellSouth has given to support reducing business hunting rates is that a high percentage of BellSouth's recent rate reductions have been applied to switched access charges and that the benefit of a business hunting reduction will flow directly to a different set of end user customers. (Lohman, T 35) Neither of these provides a compelling reason to approve BellSouth's proposal. Access charge reductions benefit end users just as much as any other rate reductions. Both AT&T and MCI have flowed through to their customers the effect of past access charge reductions. (Reid, T 154-155; Guedel, T 105-107) Further, the fact that recent rate reductions have been applied to access charges is itself evidence of the fact that the Commission and the parties have recognized: (a) that access charges are overpriced, and (b) that regulatory action is required to reduce these rates, because they are not being affected by competitive market forces.

<u>Issue 4</u>: If necessary, by what date should revised intrastate tariffs that eliminate any identified intrastate payphone subsidy be filed?

<u>MCI</u>: The Commission accepted a stipulation that if BellSouth is permitted to reduce business hunting rates, the previously filed tariff will remain in effect; otherwise, revised tariffs will be filed within 30 days after the issuance of the final order in this docket. (See Stipulation 4)

<u>Issue 5</u>: Is April 15, 1997, the appropriate effective date for revised intrastate tariffs that eliminate any identified intrastate payphone subsidy?

<u>MCI</u>: The Commission accepted a stipulation that if BellSouth is permitted to reduce business hunting rates, the effective date will remain at April 1, 1997; otherwise, revised tariffs will be effective as of April 15, 1997. (See Stipulation 5)

RESPECTFULLY SUBMITTED this 20th day of August, 1997.

HOPPING GREEN SAMS & SMITH, P.A.

By: ______________________
Richard D. Melson
P.O. Box 6526
Tallahassee, FL 32314
(904) 425-2313

and

97732.1

Thomas K. Bond
Michael J. Henry
MCI Telecommunications Corporation
780 Johnson Ferry Road, Suite 700
Atlanta, GA 30342
(404) 267-6315

97732.1

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was furnished to the following parties by U.S. Mail this 20th day of August, 1997.

William P. Cox
Division of Legal Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399

Robert G. Beatty
Nancy B. White
c/ Nancy H. Sims
150 S. Monroe St., suite 400
Tallahassee, FL 32301

Beverly Y. Menard
GTE Florida, Inc.
106 E. College Avenue, #1440
Tallahassee, FL 32301-7704

Charles J. Rehwinkel
F. B. "Ben" Poag
Sprint-Florida, Inc.
P.O. Box 2214, MC2565
Tallahassee, FL 32316-2214

Ms. Harriet Eudy
ALLTEL Florida, Inc.
P.O. Box 550
Live Oak, FL 32060-3343

Ms. Laurie A. Maffett
Frontier Communications
of the South, Inc.
180 S. Clinton Avenue
Rochester, NY 14646-0400

Bill Thomas
Gulf Telephone Company
Post Office Box 1007
Port St. Joe, FL 32457

Robert M. Post, Jr.
Indiantown Telephone System, Inc.
Post Office Box 277
Indiantown, FL 34956-0277

Lynne G. Brewer
Northeast Florida Telephone Company
P.O. Box 485
Macclenny, FL 32063-0485

Tomas M. McCabe
Quincy Telephone Company
P.O. Box 189
Quincy, FL 32353

John H. Vaughan
St. Joseph Telephone & Telehpone Company
Post Office Box 220
Port St. Joe, FL 32456-0220

Lynn B. Hall
Vista-United Telecommunications
P.O. Box 10180
Lake Buenta Vita, FL 32803-0180

Angela B. Green
Florida Public Telecommunications
Association, Inc.
125 S. Gadsden St., Suite 200
Tallahassee, FL 32301

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

Mark K. Logan
Bryant, Miller & Olive
201 S. Monroe St., Suite 500
Tallahassee, FL 32301

Attorney

91378.1