BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by McImetro
Access Transmission Services LLC
and McI WorldCom Communications,
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. 000649-TP ORDER NO. PSC-00-1324-PCO-TP ISSUED: July 21, 2000

ORDER ESTABLISHING PROCEDURE

On May 26, 2000, McImetro Access Transmission Services, LLC and McI WorldCom Communications, Inc. (collectively McI WorldCom or McIW) filed a petition for arbitration of certain terms and conditions of a proposed interconnection agreement with BellSouth Telecommunications, Inc. (BellSouth) pursuant to the Telecommunication Act of 1996. On June 20, 2000, BellSouth filed its response to McI WorldCom's arbitration petition. Pursuant to McI WorldCom's request for arbitration, this matter has been scheduled for an administrative hearing.

This Order is issued pursuant to the authority granted by Rule 28-106.211, Florida Administrative Code, which provides that the presiding officer before whom a case is pending may issue any orders necessary to effectuate discovery, prevent delay, and promote the just, speedy, and inexpensive determination of all aspects of the case.

The scope of this proceeding shall be based upon the issues raised by the parties and Commission staff (staff) up to and during the prehearing conference, unless modified by the Commission. The hearing will be conducted according to the provisions of Chapter 120, Florida Statutes, and all administrative rules applicable to this Commission.

Discovery

When discovery requests are served and the respondent intends to object to or ask for clarification of the discovery request, the objection or request for clarification shall be made within ten

DOCUMENT NUMBER-DATE

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days of service of the discovery request. This procedure is intended to reduce delay in resolving discovery disputes.

The hearing in this docket is set for October 4, 5, and 6, 2000. Unless authorized by the Prehearing Officer for good cause shown, all discovery shall be completed by September 26, 2000. All interrogatories, requests for admissions, and requests production of documents shall be numbered sequentially in order to facilitate their identification. The discovery requests will be numbered sequentially within a set and any subsequent discovery requests will continue the sequential numbering system. Pursuant Florida Administrative Code, Rule 28-106.206, subsequently modified by the Prehearing Officer, the following shall apply: interrogatories, including all subparts, shall be limited to 75, and requests for production of documents, including all subparts, shall be limited to 75.

Any information provided pursuant to a discovery request for which proprietary confidential business information status is requested shall be treated by the Commission and the parties as confidential. The information shall be exempt from Section 119.07(1), Florida Statutes, pending a formal ruling on such request by the Commission, or upon the return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been made a part of the evidentiary record in the proceeding, it shall be returned expeditiously to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of the proceeding, it shall be returned to the person providing the information within the time period set forth in Section 364.183(4), Florida Statutes.

Diskette Filings

See Rule 25-22.028(1), Florida Administrative Code, for the requirements of filing on diskette for certain utilities.

Prefiled Testimony and Exhibits

Each party shall prefile, in writing, all testimony that it intends to sponsor. Such testimony shall be typed on 8 % inch x 11 inch transcript-quality paper, double spaced, with 25 numbered lines, on consecutively numbered pages, with left margins sufficient to allow for binding (1.25 inches).

Each exhibit intended to support a witness' prefiled testimony shall be attached to that witness' testimony when filed, identified by his or her initials, and consecutively numbered beginning with 1. All other known exhibits shall be marked for identification at the prehearing conference. After an opportunity for opposing parties to object to introduction of the exhibits and to cross-examine the witness sponsoring them, exhibits may be offered into evidence at the hearing shall be numbered sequentially. The pages of each exhibit shall also be numbered sequentially prior to filing with the Commission.

An original and 15 copies of all testimony and exhibits shall be prefiled with the Director, Division of Records and Reporting, by the close of business, which is 5:00 p.m., on the date due. A copy of all prefiled testimony and exhibits shall be served by mail or hand delivery to all other parties and staff no later than the date filed with the Commission. Failure of a party to timely prefile exhibits and testimony from any witness in accordance with the foregoing requirements may bar admission of such exhibits and testimony.

Prehearing Statement

All parties in this docket shall file a prehearing statement. Staff will also file a prehearing statement. The original and 15 copies of each prehearing statement shall be prefiled with the Director of the Division of Records and Reporting by the close of business, which is 5:00 p.m., on the date due. A copy of the prehearing statement shall be served on all other parties and staff no later than the date it is filed with the Commission. Failure of a party to timely file a prehearing statement shall be a waiver of any issue not raised by other parties or by the Commission. In addition, such failure shall preclude the party from presenting testimony in support of its position. Such prehearing statements shall set forth the following information in the sequence listed below.

- (a) The name of all known witnesses that may be called by the party, and the subject matter of their testimony;
- (b) a description of all known exhibits that may be used by the party, whether they may be identified

on a composite basis, and the witness sponsoring each;

- (c) a statement of basic position in the proceeding;
- (d) a statement of each question of fact the party considers at issue, the party's position on each such issue, and which of the party's witnesses will address the issue;
- (e) a statement of each question of law the party considers at issue and the party's position on each such issue;
- (f) a statement of each policy question the party considers at issue, the party's position on each such issue, and which of the party's witnesses will address the issue;
- (g) a statement of issues that have been stipulated to by the parties;
- (h) a statement of all pending motions or other matters the party seeks action upon;
- (i) a statement identifying the parties' pending requests or claims for confidentiality; and
- (j) a statement as to any requirement set forth in this order that cannot be complied with, and the reasons therefore.

Prehearing Conference

Pursuant to Rule 28-106.209, Florida Administrative Code, a prehearing conference will be held September 28, 2000 at the Betty Easley Conference Center, 4075 Esplanade Way, Tallahassee, Florida. Any party who fails to attend the prehearing conference, unless excused by the Prehearing Officer, will have waived all issues and positions raised in that party's prehearing statement.

Prehearing Procedure: Waiver of Issues

Any issue not raised by a party prior to the issuance of the prehearing order shall be waived by that party, except for good

cause shown. A party seeking to raise a new issue after the issuance of the prehearing order shall demonstrate that: it was unable to identify the issue because of the complexity of the matter; discovery or other prehearing procedures were not adequate to fully develop the issue; due diligence was exercised to obtain facts touching on the issue; information obtained subsequent to the issuance of the prehearing order was not previously available to enable the party to identify the issue; and introduction of the issue could not be to the prejudice or surprise of any party. Specific reference shall be made to the information received, and how it enabled the party to identify the issue.

Unless a matter is not at issue for that party, each party shall diligently endeavor in good faith to take a position on each issue prior to issuance of the prehearing order. When a party is unable to take a position on an issue, it shall bring that fact to the attention of the Prehearing Officer. If the Prehearing Officer finds that the party has acted diligently and in good faith to take a position, and further finds that the party's failure to take a position will not prejudice other parties or confuse the proceeding, the party may maintain "no position at this time" prior to hearing and thereafter identify its position in a post-hearing statement of issues. In the absence of such a finding by the Prehearing Officer, the party shall have waived the entire issue. When an issue and position have been properly identified, any party may adopt that issue and position in its post-hearing statement.

Document Identification

Each exhibit submitted shall have the following in the upper right-hand corner: the docket number, the witness's name, the word "Exhibit" followed by a blank line for the exhibit number and the title of the exhibit.

An example of the typical exhibit identification format is as follows:

Docket No. 12345-TL

J. Doe Exhibit No.

Cost Studies for Minutes of Use by Time of Day

Tentative Issues

Attached to this order as Appendix "A" is a tentative list of the issues which have been identified in this proceeding. For purposes of clarity and simplification, the numbering of the issues attached hereto shall correspond to the numbering used in the arbitration petition and response. Prefiled testimony and prehearing statements shall address the issues set forth in Appendix "A".

Controlling Dates

The following dates have been established to govern the key activities of this case.

1)	Direct testimony and exhibits	August 17, 2000
2)	Rebuttal testimony and exhibits	September 7, 2000
5)	Prehearing Statements	September 14, 2000
6)	Prehearing Conference	September 28, 2000
7).	Hearing	October 4, 5, and 6, 2000
8)	Briefs	November 9, 2000

Use of Confidential Information At Hearing

It is the policy of this Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 364.183(2), Florida Statutes, to protect proprietary confidential business information from disclosure outside the proceeding. Any party wishing to use any proprietary confidential business information, as that term is defined in Section 364.183(3), Florida Statutes, shall notify the Prehearing Officer and all parties of record by the time of the Prehearing Conference, or if not known at that time, no later than seven (7) days prior to the beginning of the hearing. The notice shall include a procedure to assure that the confidential nature of the information is preserved as required by statute. Failure of any party to comply with the seven-day requirement described above

shall be grounds to deny the party the opportunity to present evidence which is proprietary confidential business information.

When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the Court Reporter, in envelopes clearly marked with the nature of the contents. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material. Counsel and witnesses are cautioned to avoid verbalizing confidential information in such way that would compromise the confidential information. Therefore, confidential information should be presented by written exhibit when reasonably possible to do so. At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the Court Reporter shall be retained in the Division of Records and Reporting's confidential files.

Post-Hearing Procedure

Each party shall file a post-hearing statement of issues and positions. A summary of each position of no more than 50 words, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of the prehearing order, the post-hearing statement may simply restate the prehearing position; however, if the prehearing position is longer than 50 words, it must be reduced to no more than 50 words. If a party fails to file a post-hearing statement in conformance with the rule, that party shall have waived all issues and may be dismissed from the proceeding.

Pursuant to Rule 28-106.215, Florida Administrative Code, a party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 40 pages, and shall be filed at the same time.

Based upon the foregoing, it is

ORDERED by Commissioner Lila A. Jaber, as Prehearing Officer, that the provisions of this Order shall govern this proceeding unless modified by the Commission.

By ORDER of Commissioner Lila A. Jaber as Prehearing Officer, this <u>21st Day of July</u>, <u>2000</u>.

ILA A. JABER

Commissioner and Prehearing Officer

(SEAL)

PAC

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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

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 25-22.0376, 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.

APPENDIX A

The tentative list of issues which have been identified in this proceeding are set forth below.

- ISSUE 1 Should the electronically ordered NRC apply in the event an order is submitted manually when electronic interfaces are not available or not functioning within specified standards or parameters?
- <u>ISSUE 2</u> What prices should be included in the Interconnection Agreements?
- ISSUE 3 Should the resale discount apply to all telecommunication services BellSouth offers to end users, regardless of the tariff in which the service is contained?
- <u>ISSUE 4</u> How should the demarcation points for the access to UNEs be established?
- ISSUE 5 Should BellSouth be required to provide OS/DA as a UNE?
- ISSUE 6 Should BellSouth be directed to perform, upon request, the functions necessary to combine unbundled network elements that are ordinarily combined in its network?
- ISSUE 7 Should BellSouth be required to combine network elements that are not ordinarily combined in its network?
- ISSUE 7A Should BellSouth charge MCIW only for UNEs that it orders and uses, and should UNEs order and use by MCIW be considered part of its network for reciprocal compensation and switched access charges?
- ISSUE 9 Should MCIW be required to use a special construction process, with additional costs, to order facilities of the type normally used at a location, but not available at the time of the order?
- ISSUE 11 Should MCIW access the feeder distribution interface directly or should BellSouth be permitted to introduce an intermediate demarcation device?

- ISSUE 12 Should the Interconnection Agreements contain MCIW's proposed terms governing the provision of optical loop concentrators, intelligent loop concentrators, and DSLAMs as unbundled network elements?
- ISSUE 15 When an MCIW customer served via the UNE-platform makes a directory assistance or operator call, must the ANI-II digits be transmitted to MCIW via Feature Group D signaling from the point of origination?
- ISSUE 16 Should BellSouth be required to provide GR-303 equipped integrated digital loop carrier where it is available? Where such facilities are available, should BellSouth provide multi-hosting?
- ISSUE 18 Is BellSouth required to provide all technically feasible unbundled dedicated transport between locations and equipment designated by MCIW so long as the facilities are used to provide telecommunications services, including interoffice transmission facilities to network nodes connected to MCIW switches and to the switches or wire centers of other requesting carriers?
- ISSUE 19 How should BellSouth be required to route OS/DA traffic to MCIW's operator services and directory assistance platforms?
- ISSUE 22 Should the Interconnection Agreements contain MCIW's proposed terms addressing line sharing, including line sharing in the UNE-P and unbundled loop configurations?
- ISSUE 23 Does MCIW's right to dedicated transport as an unbundled network element include SONET rings?
- ISSUE 28 Should BellSouth provide the calling name database via electronic download, magnetic tape, or via similar convenient media?
- ISSUE 29 Should calls from MCIW customers to BellSouth customers served via Uniserve, Zipconnect, or any other similar service, be terminated by BellSouth from the point of interconnection in the same manner as other local traffic, without a requirement for special trunking?
- ISSUE 32 Should there be any charges for use of a joint optical interconnection facility built 50% by each party?

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- ISSUE 33 Does MCIW have the right to require interconnection via a Fiber Meet Point arrangement, jointly engineered and operated as a SONET Transmission System (SONET ring) whether or not that SONET ring presently exists in BellSouth's network?
- <u>ISSUE 34</u> Is BellSouth obligated to provide and use two-way trunks that carry each party's traffic?
- ISSUE 35 If the parties ever choose to implement a combination trunk group, should that trunk group be operated as a two-way trunk?
- ISSUE 36 Does MCIW, 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 37 Should BellSouth be permitted to require MCIW to fragment its traffic by traffic type so it can interconnect with BellSouth's network?
- ISSUE 39 How should Wireless Type 1 and Type 2A traffic be treated under the Interconnection Agreements?
- ISSUE 40 What is the appropriate definition of internet protocol (IP) and how should outbound voice calls over IP telephony be treated for purposes of reciprocal compensation?
- ISSUE 42 Should MCIW be permitted to route access traffic directly to BellSouth end offices or must it route such traffic to BellSouth's access tandem?
- ISSUE 43 When the ANI, CPN and BTN are not available, should the parties be required to include in the information transmitted with the call the NPA/NXX associated with the trunk group or the telephone number associated with the trunk group?
- ISSUE 45 How should third party transit traffic be routed and billed by the parties?
- ISSUE 46 Under what conditions, if any, should the parties be permitted to assign an NPA/NXX code to end users outside the rate center in which the NPA/NXX is homed?
- <u>ISSUE 47</u> Should reciprocal compensation payments be made for ISP bound traffic?

- <u>ISSUE 51</u> Under what circumstances is BellSouth required to pay tandem charges when MCIW terminates BellSouth local traffic?
- ISSUE 53 Should call jurisdiction be based on the calling party number or on jurisdictional factors that represent averages?
- ISSUE 53A Should MCIW be required to utilize direct end office trunking in situations involving tandem exhaust or excessive traffic volumes?
- ISSUE 54 Should security charges be assessed for collocation in offices with existing card key systems, and how should security costs be allocated in central offices where new card key systems are being installed?
- ISSUE 56 Should BellSouth be required to provide DC power to adjacent collocation space? (Attachment 5, Section 3.4)
- ISSUE 57 Should the Interconnection Agreements include MCIW's proposed terms and conditions regarding virtual collocation?
- ISSUE 59 Should collocation space be considered complete before BellSouth has provided MCIW with cable facility assignments ("CFAs")?
- ISSUE 60 Should BellSouth provide MCIW with specified collocation information at the joint planning meeting?
- ISSUE 61 Should the per ampere rate for the provision of DC power to MCIW's collocation space apply to amps used or to fused capacity?
- <u>ISSUE 63</u> Is MCIW entitled to use any technically feasible entrance cable, including copper facilities?
- <u>ISSUE 64</u> Is MCIW entitled to verify BellSouth's assertion, when made, that dual entrance facilities are not available? Should BellSouth maintain a waiting list for entrance space and notify MCIW when space becomes available?
- <u>ISSUE 65</u> What information must BellSouth provide to MCIW regarding vendor certification?
- <u>ISSUE 66</u> What industry guidelines or practices should govern collocation?

- ISSUE 67 When MCIW has a license to use BellSouth rights-of-way, and BellSouth wishes to convey the property to a third party, should BellSouth be required to convey the property subject to MCIW's license?
- <u>ISSUE 68</u> Should BellSouth require that payments for make-ready work be made in advance?
- ISSUE 75 For end users served by INP, should the end user or the end user's local carrier be responsible for paying the terminating carrier for collect calls, third party billed calls or other operator assisted calls?
- ISSUE 76 Should BellSouth be required to develop the industry standard EDI pre-ordering interface (REDI) without charging MCIW for the up-front development costs?
- ISSUE 78 How should credit information be provided to MCIW?
- ISSUE 80 Should BellSouth be required to provide an application-to-application access service order inquiry process?
- <u>ISSUE 81</u> Should BellSouth provide a service inquiry process for local services as a pre-ordering function?
- ISSUE 83 Should BellSouth be required to provide downloads of the RSAG database without license agreements?
- ISSUE 84 Should the parties be required to develop jointly an implementation plan for the ordering of local switching in combination with unbundled loops, including UNE-P?
- ISSUE 85 What procedures should be used for PIC changes?
- ISSUE 87 Should MCIW be required to pay for expedited service when BellSouth provides service after the offered expedited date, but prior to BellSouth's standard interval?
- ISSUE 88 For customer premises installations, should BellSouth be required, at MCIW's request, to cable from the demarcation point to the customer's equipment location in accordance with BellSouth's procedures and at parity with the provision of such services to BellSouth's customers?
- ISSUE 89 When BellSouth rejects an MCIW order, should it be required to identify all errors in the order that would cause it to be rejected?

- ISSUE 90 Should BellSouth be required to provide completion notices for manual orders?
- ISSUE 91 What intervals should apply to FOCs? Should BellSouth be required to check facilities before returning an FOC?
- <u>ISSUE 92</u> Should the parties be required to follow the detailed quidelines proposed by MCIW with respect to LNP orders?
- ISSUE 93 By when must the parties bill for previously unbilled amounts? By when must they submit bills to one another?
- ISSUE 94 Should BellSouth be permitted to disconnect service to MCIW for nonpayment?
- ISSUE 95 Should BellSouth be required to provide MCIW with billing records with all EMI standard fields?
- ISSUE 96 Should BellSouth be required to give written notice when a central office conversion will take place before midnight or after 4 a.m.?
- ISSUE 96A Should BellSouth be required to provide customer service record (CSR) information in a format that permits its use in completing an order for service?
- ISSUE 97 Should BellSouth be required to provide MCIW with notice of changes to NPA/NXXs linked to Public Safety Answering Points as soon as such changes occur?
- ISSUE 98 Should BellSouth be required to provide the 911 information and comply with 911 trunking requirements proposed by MCIW?
- ISSUE 99 Should BellSouth be required to provide MCIW with 10 digit PSAP numbers?
- <u>ISSUE 100</u> Should BellSouth operators be required to ask callers for their carrier of choice when such callers request a rate quote or time and charges?
- ISSUE 101 Is BellSouth required to provide shared transport in connection with the provision of custom branding? Is MCIW required to purchase dedicated transport in connection with the provision of custom branding?

ISSUE 102 Should the parties provide "inward operator services" through local interconnection trunk groups using network routable access codes BellSouth establishes through the LERG?

ISSUE 103 Should BellSouth operators be required to connect MCIW subscribers dialing "0" and requesting directory assistance to any directory assistance platform designated by MCIW?

ISSUE 105 What performance measurement system should BellSouth be required to provide?

ISSUE 106 Should the Interconnection Agreements contain a provision establishing that BellSouth will provide services in any combination requested by MCIW?

ISSUE 107 Should the parties be liable in damages, without a liability cap, to one another for their failure to honor in one or more material respects any one or more of the material provisions of the Agreements?

ISSUE 108 Should MCIW be able to obtain specific performance as a remedy for BellSouth's breach of contract?

ISSUE 109 Should BellSouth be required to permit MCIW to substitute more favorable terms and conditions obtained by a third party through negotiation or otherwise, effective as of the date of MCIW's request. Should BellSouth be required to post on its website all BellSouth's interconnection agreements with third parties within fifteen days of the filing of such agreements with the FPSC?

ISSUE 110 Should BellSouth be required to take all actions necessary to ensure that MCIW confidential information does not fall into the hands of BellSouth's retail operations, and should BellSouth bear the burden of proving that such disclosure falls within enumerated exceptions?

ISSUE 111 Should MCIW's proposed procedures be followed for reporting and auditing of PIUs and PLUs?

FLORIDA PUBLIC SERVICE COMMISSION - RECORDS AND REPORTING

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PSC/RAR 12(9/99)

MEMORANDUM

July 3, 2000

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RECORDS AND

TO:

DIVISION OF RECORDS AND REPORTING

FROM:

DIVISION OF LEGAL SERVICES (CHRISTENSEN)

RE:

DOCKET NO. 000649-TP - PETITION BY MCIMETRO ACCESS TRANSMISSION SERVICES LLC AND MCI WORLDCOM COMMUNICATIONS, 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.

1324-PCE

Attached is an ORDER ESTABLISHING PROCEDURE, to be issued in the above-referenced docket.

(Number of pages in order - 17)

PAC/lw

Attachment

affach's online

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cc: Division of Competitive Services (Barrett, Fulwood)

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MUST GO TODAY