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November 10, 1995

Via Federal Express

Mrs. Blanca S. Bayo
Director, Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399

Re: Resolution of Petition(s) to establish unbundled services, network features, functions or capabilities, and local loops pursuant to Section 364.161, Florida Statutes (Docket No. 950984-TP)

Dear Mrs. Bayo:

Enclosed for filing, in accordance with the Order Establishing Procedure in the above docket, please find an original and fifteen (15) copies of the Petition of Metropolitan Fiber Systems of Florida, Inc. For BellSouth to Unbundle the Local Loop and Direct Testimony of Timothy T. Devine on Behalf of Metropolitan Fiber Systems of Florida, Inc.

Also enclosed is an extra copy. Please date stamp the copy and return it in the enclosed self-addressed envelope.

Thank you for your attention to this matter.

Sincerely,

James C. Falvey
James C. Falvey

cc: All parties of record

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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

Docket No. 950984-TP
Filed: November 13, 1995

In re: Resolution of petition(s) to establish)
unbundled services, network features, functions or) Docket No. 950984-TP
capabilities, and local loops pursuant to Section) Filed: November 13, 1995
364.161, Florida Statutes)

PETITION OF METROPOLITAN FIBER SYSTEMS OF FLORIDA, INC.
FOR BELL SOUTH TO UNBUNDLE THE LOCAL LOOP

Metropolitan Fiber Systems of Florida, Inc., through its undersigned counsel, and pursuant to Florida Administrative Code Rule 25-22.036(7), Section 364.161, Florida Statutes, and the Order Establishing Procedure in this docket, files this Petition for BellSouth Telecommunications, Inc. ("BellSouth") to provide unbundled services, network features, functions and capabilities, and specifically the local loop:

1. Metropolitan Fiber Systems of Florida, Inc. ("MFS-FL") is a certificated Alternative Access Vendor ("AAV"). The Commission recently recognized MFS-FL's request to provide competitive local exchange service as an alternative local exchange company ("ALEC"), effective January 1, 1996. The address of MFS-FL is:

Metropolitan Fiber Systems of Florida, Inc.
8830 N.W. 18th Terrace, America's Gateway Center
Miami, FL 33172

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2. The individuals to notify in this proceeding are:

Timothy Devine
MFS Communications Company, Inc.
250 Williams St.
Suite 2200
Atlanta, GA 30303-1034
404/224-6115 (ph.)
404/224-6060 (fax)

Richard M. Rindler
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SWIDLER & BERLIN, CHARTERED
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Suite 300
Washington, D.C. 20007
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Statement of Interest and Negotiating History

3. Pursuant to Section 364.161, Florida Statutes, MFS-FL and BellSouth have 60 days to negotiate acceptable terms, conditions and prices of feasible unbundling requests. If negotiations prove unsuccessful after 60 days, either party has the right to file a petition for a satisfactory resolution of requests for unbundled services, network features, functions, or capabilities, including unbundling the local loop. MFS-FL, by letter dated July 19, 1995, initiated negotiations with BellSouth. More than 60 days have passed and, as discussed below, negotiations have not proven successful. MFS-FL therefore files this Petition requesting that the Commission require BellSouth to provide unbundled exchange service arrangements, and specifically the unbundled local loop.

4. As evidenced by the correspondence exchanged between the parties, attached hereto as Exhibit TTD-1, MFS-FL initiated negotiations with BellSouth by letter dated July 19, 1995.

(Although negotiations were initially conducted on behalf of MFS-FL by Gary Ball, Timothy Devine took over the negotiations as Senior Director of Regulatory Affairs, Southern Region). Although both parties proposed stipulations, agreement could not be reached.

5. While as detailed below more progress was made on some issues than on others, the critical point on which agreement could not be reached was whether negotiations should address the issue of universal service/carrier of last resort recovery. MFS-FL took the position that an agreement could be reached on a number of interconnection and unbundling issues without reaching some of the more difficult interconnection issues, such as reciprocal compensation, and that issues such as universal service were being addressed in separate dockets. (In fact, MFS-FL affiliates have entered into agreements in Connecticut and Massachusetts on some but not all of the critical co-carrier issues.) BellSouth took the position that it would not enter into any interconnection or unbundling agreement unless MFS-FL agreed, as did Teleport Communications Group, Inc. ("TCG"), to the BellSouth "alternative 1" universal service proposal. *See* Affidavit of Timothy Devine attached as Exhibit TTD-2.

6. This intransigent, all-or-nothing ultimatum was unreasonable to MFS-FL in light of: a) the substantial success of MFS-FL affiliates in other states in reaching agreement on a limited subset of the less contentious issues; b) the fact that BellSouth required agreement on its own terms to its universal service proposal; c) the universal service issue is more appropriately decided in the separate universal service docket where the issue has been more closely studied; and d) as indicated in the MFS-FL testimony in the universal service docket, MFS-FL does not believe that any universal service mechanism is appropriate until a LEC demonstrates that a subsidy exists for a particular customer class or geographic area.

7. Although there appear to be issues upon which the parties might have agreed, no agreement was reached on *any* issue due to BellSouth's insistence on its own universal service mechanism. The BellSouth requirement that universal service be addressed in these negotiations was added at the eleventh hour, and served to game the negotiating process, leaving MFS-FL with no alternative but to file this Petition. The creation of this negotiating roadblock at the last minute strongly suggests that the Commission should closely monitor not only this initial process of establishing co-carrier arrangements, but the entire process of implementing the arrangements, as well.

8. MFS-FL is accordingly filing two petitions: this Petition for the unbundling of exchange service arrangements, and a second Petition for nondiscriminatory interconnection arrangements. The Commission, pursuant to statute, should consolidate these two petitions in order to streamline the consideration of these petitions which both stem from the same negotiations with BellSouth. The statute states that: "If the commission receives one or more petitions relating to both interconnection and resale of services and facilities, the commission shall conduct separate proceedings for each." Fla. Stat. § 364.162 (emphasis added). The statute appears to provide for petitions from several different companies, based on separate negotiating histories, that would address both interconnection and unbundling issues. The statute merely requires that petitions from different companies be addressed in separate proceedings. MFS-FL has filed separate interconnection and unbundling petitions due to the establishment of two separate dockets, but it would be entirely consistent with statute, and significantly more efficient,

if the Commission were to consolidate these two MFS-FL petitions. Moreover, there would be no prejudice to BellSouth which would share in the efficiencies created by the consolidation. If these petitions are not consolidated, MFS-FL requests that they be considered on a coordinated procedural schedule.

**Statement of Interconnection and Unbundling Arrangements
That MFS-FL Requires to Provide Service as an ALEC**

9. MFS-FL believes that certain co-carrier requirements should apply equally and reciprocally to all local exchange carriers, both ALECs and LECs. The co-carrier arrangements that MFS-FL will need to provide service on January 1, 1996, as listed in the attached stipulation proposed by MFS-FL on November 8, 1995 attached as Exhibit TTD-4, are:

- 1) Number Resources Arrangements;
- 2) Meet-point Billing Arrangements, including Tandem Subtending;
- 3) Default Network Interconnection Architecture, Reciprocal Traffic Exchange, and Reciprocal Compensation;
- 4) Shared Network Platform Arrangements;
- 5) Unbundled Exchange Service Arrangements; and
- 6) Local Telephone Number Portability Arrangements.

Unbundled exchange service arrangements are addressed in this Petition; the five remaining co-carrier issues are addressed in the MFS-FL interconnection Petition.

Statement of Issues on Which MFS-FL and BellSouth Have Reached Agreement

10. As noted above, although there appear to be issues upon which the parties might have agreed (just as MFS-FL has signed stipulations with LECs in Massachusetts and Connecticut), no agreement was reached on *any* issue due to BellSouth's insistence on its own universal service mechanism.

11. MFS-FL notes that Teleport Communications Group, Inc./TCG South Florida ("TCG") and BellSouth recently filed a Joint Motion for Stay of Proceeding that covered a wide range of co-carrier arrangements including a number of shared platform arrangements. See TCG Stipulation, Attachment B, Docket No. 950985-TP, filed October 17, 1996. The TCG Stipulation did not address a necessary prerequisite to facilitating competition in the local exchange market, unbundling the local loop. Despite the fact that it did not address this issue, the TCG Stipulation recommended that this unbundling docket be closed upon approval of the Stipulation. TCG Stipulation at 13. (The TCG Stipulation also recommended that the interim number portability docket be closed upon signing of the stipulation, despite the fact that TCG is not even a party to that docket.) *Id.*

Disputed Issues of Fact

12. MFS-FL has more fully described its positions on the co-carrier issues and its disputed issues of fact with BellSouth in its Direct Testimony in this proceeding. See Direct Testimony of Timothy Devine attached hereto. The following is a summary of these disputed issues of fact.

13. MFS-FL maintains that local loop unbundling is necessary to provide access to essential bottleneck facilities controlled by BellSouth. BellSouth retains sole control of numerous bottleneck elements of the local exchange network. MFS-FL supports the unbundling of specific elements of the BellSouth network for use by new entrants so that each element of the local loop bottleneck is priced separately from other service elements. This will allow MFS-FL and users to pay for only those portions of the loop services that they want or need.

14. MFS-FL proposes that BellSouth unbundle all its Exchange Services into two separate packages: (1) a link element (the transmission facility between a customer's premises and the main distribution frame (or equivalent) in the incumbent LEC's wire center) plus cross-connect element; and (2) port element (the dedicated hardware within the central office required to interface the link to an end office switch) plus cross-connect element. Specifically, MFS-FL proposes that the following unbundled link and port categories should be provided: Link Categories - (1) 2-wire analog voice; (2) 2-wire ISDN digital grade; and (3) 4-wire digital grade; Port Categories - (1) 2-wire analog line; (2) 2-wire ISDN digital line; (3) 2-wire analog DID trunk; (4) 4-wire DS-1 digital DID trunk; and (5) 4-wire ISDN DS-1 trunk. MFS-FL also has a requirement to receive concentration of unbundled loops at serving wire centers for the more efficient provision of loops. BellSouth has stated that it is amenable to providing unbundled digital loops assuming that an MFS-FL-provided digital loop carrier system can be utilized in a virtual co-location arrangement. BellSouth has also stated that it would provide an unbundled 2-wire voice grade loop and a 2-wire analog port in its initial tariff filing package. As noted above, MFS-FL and BellSouth have not reached agreement on any issues because of BellSouth's insistence on its own universal service mechanism.

15. MFS-FL proposes that BellSouth unbundle and separately price and offer the unbundled link and port elements such that MFS-FL will be able to lease and interconnect to whichever of these unbundled elements MFS-FL requires, and to combine these elements with any facilities and services that MFS-FL may provide itself, in order to efficiently offer telephone services to end users. In addition, BellSouth should apply all transport-based features, functions, service attributes, grades-of-service, install, maintenance and repair intervals which apply to

bundled service to unbundled links. Similarly, BellSouth should apply all switch-based features, functions, service attributes, grades-of-service, and install, maintenance and repair intervals which apply to the bundled service to unbundled ports. BellSouth should also permit any customer to convert its bundled services to an unbundled service and assign such services to MFS-FL, with no penalties, rollover, termination or conversion charges to MFS-FL or the customer. BellSouth stated that MFS-FL would not be allowed to combine an unbundled loop with an unbundled port when both elements are provided by BellSouth.

16. MFS-FL proposes that interconnection should be achieved through collocation arrangements that MFS-FL maintains at wire centers at which unbundled elements reside. BellSouth should permit MFS-FL to collocate remote switching modules and associated equipment in conjunction with collocation arrangements that MFS-FL maintains at a BellSouth wire center, for the purpose of interconnecting to unbundled link elements. BellSouth maintains that its collocation tariff does not allow collocators to place switching equipment in a collocation space.

17. MFS-FL proposes that loop pricing should be appropriately discounted from the retail price for bundled dial tone line services. BellSouth asserts that its special access and private line tariffs are an adequate substitute for an unbundled co-carrier loop facility. While MFS-FL has not reviewed the rates in BellSouth's private line tariff, it has been MFS-FL's experience that the tariffed rate of a private line service usually exceeds the tariffed rate of a bundled dial tone or business line. Accordingly, MFS-FL proposes that the rate for an unbundled loop not exceed its proportion of the total bundled dial tone rate for a measured business line (one that does not have usage built in), until such a time as the forward looking costs of loops are determined.

Basis For Relief

18. The ultimate facts and law entitling MFS-FL to relief include, but are not limited to the following:

19. Pursuant to Section 364.161, Florida Statutes, MFS-FL may file a petition for Commission intervention so that BellSouth will unbundle its services, network features, functions, or capabilities, including unbundled local loops if the parties fail to reach an agreement after 60 days. As discussed above, MFS-FL and BellSouth have not reached an agreement on any interconnection or unbundling issue because of BellSouth's insistence on its own universal service mechanism. Accordingly, MFS-FL is entitled to petition and hereby does petition the Commission for BellSouth to unbundle its local loop.

20. Pursuant to Section 25-22.036 of the Commission's Rules, MFS-FL's substantial interests are affected by the failure of negotiations. MFS-FL must establish co-carrier arrangements with BellSouth in order to provide competitive local exchange service to its customers in the territory served by BellSouth. Until such arrangements are established, MFS-FL cannot provide such service, nor will the Legislature be able to meet its goal of implementing local exchange competition in Florida.

21. The Commission has 120 days from the date of this filing to establish nondiscriminatory rates, terms, and conditions for unbundled local loops, as requested above by MFS-FL.

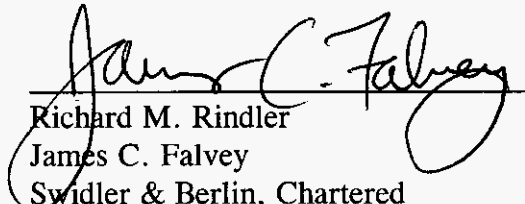
WHEREFORE, Metropolitan Fiber Systems of Florida, Inc. respectfully requests that the Commission, within 120 days from the date of this filing:

1. Enter an order granting MFS-FL its request that BellSouth unbundle its network features, functions, or capabilities, and services, and specifically its local loop, as described in this Petition and the accompanying Testimony.

2. Grant MFS-FL such other relief as the Commission may deem necessary or appropriate.

Respectfully Submitted,

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Dated: November 10, 1995

**Petition of Metropolitan Fiber Systems of Florida, Inc.
For BellSouth to Unbundle the Local Loop
Docket No. 950984-TP
Filed: November 13, 1995**

**Metropolitan Fiber Systems of Florida, Inc.
List of Issues Upon Which the Parties Have Reached Agreement**

The parties have been unable to reach agreement on any issue because, as explained in the Direct Testimony of Timothy T. Devine in this docket, BellSouth has insisted that any unbundling agreement include BellSouth's universal service proposal. Metropolitan Fiber Systems of Florida, Inc. ("MFS-FL") has reached agreements on a subset of interconnection issues in other states, but has been unable to come to a similar agreement with BellSouth.

**Metropolitan Fiber Systems of Florida, Inc.
List of Issues That Are Unresolved**

Because BellSouth and MFS-FL have been unable to reach agreement on any issue, all of the issues listed in the attached MFS-FL Proposed List of Issues remain to be resolved in this proceeding.

**Petition of Metropolitan Fiber Systems of Florida, Inc.
For BellSouth to Unbundle the Local Loop
Docket No. 950984-TP
Filed: November 13, 1995**

**Metropolitan Fiber Systems of Florida, Inc.
Proposed List of Issues**

1. In unbundling BellSouth Exchange Services into link and port elements, what link elements and what port elements should be available on an unbundled basis?
2. What rates should apply to unbundled link and port elements to ensure that they are available to MFS-FL in a manner that will permit it to compete in Florida on an economically viable basis?
3. What order entering, processing, billing, trouble reporting, maintenance, and other operational issues should be addressed to enable MFS-FL to have access to BellSouth essential facilities?
4. What mechanism should be put in place to enable new entrants to request further unbundling of BellSouth essential facilities?
5. What technical and financial arrangements should be in place to address unbundled loop concentration (including access to BellSouth digital loop carriers)?
6. What additional technical and financial arrangements are necessary to facilitate the unbundling of the local loop on nondiscriminatory terms and conditions?