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April 24, 1996

BY HAND DELIVERY

Ms. Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: Resolution of Petition to Establish Non-Discriminatory Rates, Terms and Conditions for Resale Involving Local Exchange Companies and Alternative Local Exchange Companies pursuant to Section 364.161, Florida Statutes; Docket No. 950984-TP

Dear Ms. Bayo:

Enclosed for filing in the above-styled docket are the original and fifteen (15) copies of the Response of AT&T Communications of the Southern States, Inc. to BellSouth Telecommunications, Inc.'s Motion for Reconsideration. Additionally, please find enclosed a 3.5" diskette formatted for WordPerfect 5.1 containing a copy of the Response.

Please acknowledge receipt and filing of the above by stamping the duplicate copy of this letter and returning the same to this writer.

Thank you for your assistance in this matter.

Sincerely,

Mark K. Logan

RECEIVED & FILED

EPSC-BUREAU OF RECORDS

MKL/ma

Enclosures

cc: All parties of record

- ACK
- AFA
- APP
- CAF
- CMU Chase
- CTR
- EAG
- LEG 1
- LIN 5
- DPC
- RCH
- SEC 1

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

CERTIFICATE OF SERVICE

DOCKET NO. 950984-TP

I HEREBY CERTIFY that a true copy of the foregoing has been furnished by next day express mail, U. S. Mail or hand-delivery to the following parties of record this 24th day of April, 1996.

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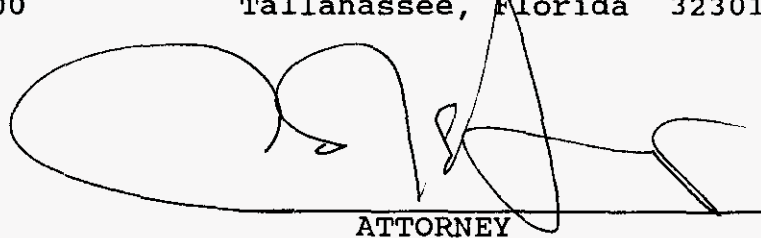
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Resolution of Petition to)
Establish Non-Discriminatory Rates,))
Terms, and Conditions for Resale)
Involving Local Exchange Companies)
and Alternative Local Exchange)
Companies pursuant to Section)
364.161, Florida Statutes)
_____)

DOCKET NO. 950984-TP

Filed: April 24, 1996

RESPONSE OF AT&T COMMUNICATIONS OF THE
SOUTHERN STATES, INC. TO BELL SOUTH TELECOMMUNICATIONS, INC'S
MOTION FOR RECONSIDERATION

AT&T Communications of the Southern States, Inc. ("AT&T"), pursuant to Rule 25-22.060(1)(b), Fla. Admin. Code, files its response to the Motion for Reconsideration filed by BellSouth Telecommunications, Inc. ("BellSouth") and states:

1. BellSouth correctly cites Diamond Cab Co. v. King, 146 So. 2d 889 (Fla. 1962) and its progeny as setting the standard of review in evaluating a motion to reconsider. However, BellSouth then ignores the clearly articulated standards set forth in Diamond Cab and expressly adopted by the Commission. The purpose of a motion to reconsider is to bring to the attention of the Commission some material and relevant point of fact or law which was overlooked, or which it failed to consider when it rendered the order in the first instance. In Re: Intermedia Communications of Florida, Inc., Florida Public Service Commission Order No. PSC-95-1188-FOF-TP (September 21, 1995) (citing Diamond Cab). Thus, the burden is upon BellSouth to demonstrate that the Commission has overlooked a particular point of fact or law that requires reconsideration. In Re: Investigation into Florida Public Service Commission Jurisdiction Over Southern States Utilities, Inc. in Florida, Florida Public Service Commission Order No. PSC-94-1040-

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FOF-WS (August 24, 1995). A review of the record and final order in the BellSouth docket demonstrates that BellSouth has failed to meet this standard; therefore, the Motion for Reconsideration should be denied.

2. BellSouth asserts that the rates set by the Commission for the provision of 2-Wire Loop and 2-Wire Analog Ports are below cost and thus violative of Section 364.161, Florida Statutes (1995). The basis for this assertion is BellSouth's contention that its cost data on unbundled loops and ports was ignored by the Commission in reaching its determination. A review of the Commission's order suggests otherwise. First the Commission set interim rates due to the lack of quality cost data provided by BellSouth and the compressed time frame for hearing the petitions. Order Establishing Provisions For Resale of Services Provided by BellSouth Communications, Inc., Florida Public Service Commission Order No. PSC-96-0444-FOF-TP (March 29, 1996) at p. 16. ("Final Order"). The interim rates were, in fact, based upon BellSouth's data. Id. That data suggested a rate as low as \$16.00 for 2-wire loops. Id. However, the Commission determined that \$17.00 was more appropriate until the completion of further cost analysis.

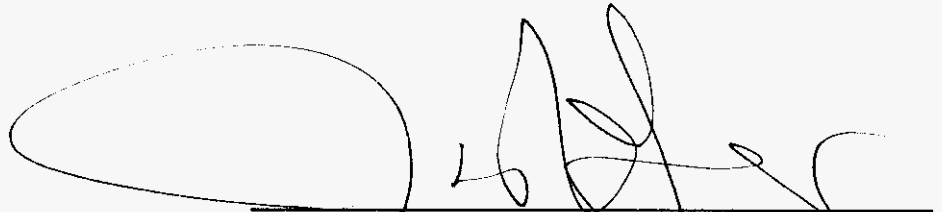
3. BellSouth now wants to avoid the analysis and application of portions of its own data submitted to the Commission. Yet it offers no rationale why the unbundled loop data was inappropriate for Commission consideration. Furthermore, the Commission specifically found that the unbundled port rate was above the cost study submitted by BellSouth for that element. Thus, there is no

basis for the Commission to reconsider its original findings set forth in the Final Order.

4. AT&T's review of the Final Order and Section 364.161 suggests that there is no prohibition that keeps BellSouth from negotiating additional or amendatory terms with ALECs on collocation issues. Should those negotiations culminate in an agreement then BellSouth is free to petition the Commission for approval of the same. Thus, there is no need to delay implementation of the Final Order as written.

5. The Commission's Final Order contains a provision requiring BellSouth to permit any customer to convert its bundled service to an unbundled service and assign such service to MFS-FL, with no penalties, rollover, termination or conversion charges to MFS-FL or the customer. BellSouth contends that this order violates the U.S. and State Constitutions because it would allow for the abrogation of contracts between BellSouth and its customers. This assertion is misplaced as the operative language in the Final Order does not in any way address customers with contracts that may or may not exist between BellSouth and a customer. Moreover, BellSouth provides no citation where it presented evidence with respect to existing contracts or termination clauses. Even assuming the Final Order can be construed as impairing BellSouth's contracts, such impairment is fully justified given the "evil" effects of a previously monopolistic industry on the potential for development of competition for local telecommunications service. Pomponio v.

Claridge of Pompano Condominium, Inc., 378 So. 2d 774, 780 (Fla. 1979). Accordingly, there is no basis for reconsidering this aspect of the Final Order.



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