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BELLSOUTH TELECOMMUNICATIONS, INC.
DIRECT TESTIMONY OF ROBERT C. SCHEYE
BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

**ORIGINAL
FILE COPY**

DOCKET NO. 960846-TP
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SEPTEMBER 9, 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. PLEASE GIVE A BRIEF DESCRIPTION OF YOUR BACKGROUND AND
EXPERIENCE.

A. I began my telecommunications company career in 1967 with the Chesapeake
and Potomac Telephone Company (C&P) after graduating from Loyola
College with a Bachelor of Science in Economics. After several regulatory
positions in C&P, I went to AT&T in 1979, where I was responsible for the
Federal Communications Commission ("FCC") Docket dealing with
competition in the long distance market. In 1982, with the announcement of
divestiture, our organization became responsible for implementing the
Modification of Final Judgment (MFJ) requirements related to

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1 nondiscriminatory access charges. In 1984, our organization became part of
2 the divested regional companies' staff organization which became known as
3 Bell Communications Research, Inc. (Bellcore). I joined BellSouth in 1987 as
4 a Division Manager responsible for jurisdictional separations and other FCC
5 related matters. In 1993, I moved to the BellSouth Strategic Management
6 organization where I have been responsible for various issues including local
7 exchange interconnection, unbundling and resale.

8

9 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

10

11 A. The purpose of my testimony is to provide a framework for BellSouth's
12 response to MCI's request for arbitration and to respond to the issues identified
13 by the parties and the Florida Public Service Commission ("Commission") in
14 this proceeding. My testimony is divided into the following sections:

15

16 **Section I: General Overview of Negotiations with MCI**

17 **Section II: BellSouth's Discussion of Issues in this Arbitration Proceeding**

18 **Section III: Summary and Recommendations for the Commission**

19

20 In addition, attached to my testimony as Exhibit RCS-1, is a modified copy of
21 "Term Sheet Items" (Exhibit 4 to MCI's Petition) to provide a clear description
22 of the issues that are agreed upon and the unresolved issues. These corrections
23 are provided in the left margin in our attempt to more fully define BellSouth's
24 position on the resolved and unresolved issues between MCI and BellSouth.

25

1 I. GENERAL OVERVIEW OF NEGOTIATIONS WITH MCI

2

3 Q. WOULD YOU PLEASE DESCRIBE BELLSOUTH'S VIEW OF
4 NEGOTIATIONS WITH MCI?

5

6 A. Yes. BellSouth has negotiated with MCI in essentially two phases. BellSouth
7 negotiated under the auspices of the Act in both these phases. The issues that
8 were discussed were those included in the Act as requiring negotiations and
9 any agreements had to comport with the requirements of the Act. The reason
10 for negotiating in this manner was quite simple, i.e., the only basis of
11 negotiations was the requirements of the Act. The Act defined the issues and
12 established the timeframes. Entering into negotiations on any other basis
13 would have been somewhat useless.

14

15 During the first phase of the negotiations, the parties resolved the financial and
16 technical arrangements for local interconnection, directory (both yellow and
17 white pages) listings, 911 and E911 issues, and several other related issues.
18 The resolution of these items was included in a MCI/BellSouth agreement for
19 several states, including Florida, signed on May 13, 1996 to be effective on
20 May 15, 1996. This agreement was filed with this Commission under the
21 provisions of Section 252 of the Act and approved by the Commission on
22 August 13, 1996. MCI has sometimes referred to this as an interim agreement.
23 The provisions of the items included in the agreement are for a two-year
24 period. This is typical of the duration that BellSouth has negotiated with most
25 carriers. Partial is a more descriptive term for this agreement than interim.

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Once the partial agreement, Exhibit II of MCI's Petition for Arbitration, was completed, MCI initiated additional discussions, i.e., phase two. BellSouth entered these discussions to negotiate those issues not included in phase one, e.g., resale and unbundling. Revisiting the issues that were resolved in phase one would have been highly inefficient. As MCI's arbitration filing depicts, there are several areas that were agreed to in phase two. During both these phases, BellSouth worked toward reaching a comprehensive agreement that would encompass the resolution of all outstanding issues. BellSouth dedicated personnel to these discussions, including BellSouth officers at times.

Throughout these negotiations, BellSouth participated with the understanding that 1) it was always negotiating under the provisions of the Act, and 2) only those issues not resolved in either the phase one partial agreement or phase two would be subject to arbitration.

Even as we proceed through this arbitration phase, BellSouth continues to negotiate with MCI in a effort to reach mutually agreeable rates, terms, and conditions for unbundling of network elements and resale of services.

Q. GIVEN THE MAY 15, 1996 AGREEMENT BETWEEN BELLSOUTH AND MCI, ARE ISSUES CONTAINED IN THE AGREEMENT SUBJECT TO ARBITRATION?

1 A. No. The partial agreement, Exhibit II of MCI's Petition for Arbitration,
2 already covers the agreed upon issues and are therefore not subject to
3 arbitration. The partial agreement was negotiated under the terms of the Act;
4 there is no other basis for negotiating such items. The agreement was
5 submitted for approval under Section 252 of the Act to this Commission and
6 this Commission approved it under the provisions of the Act. "Negotiated
7 under", "filed under", "approved under" does not lead to "arbitrated under". If
8 it did then there would be absolutely no purpose for negotiation and approval
9 except to consume the resources of all parties for non-productive purposes.

10

11 It is apparent that MCI has a different view of whether issues covered buy the
12 Partial Agreement can be arbitrated. MCI apparently relies on Section II B of
13 the agreement which indicates that MCI may maintain its positions in
14 proceeding in Florida and Tennessee. BellSouth believes that this section is
15 not relevant to arbitration.

16

17 At the time the partial agreement was being negotiated, both Florida and
18 Tennessee had proceedings underway on the interconnection issues. MCI
19 wanted to continue its participation in these proceedings and the language of II
20 B. was developed. BellSouth was aware that MCI could (and most likely
21 would) be filing for arbitration in several states beyond Florida and Tennessee,
22 e.g. North Carolina, Georgia, and Kentucky. The only differentiation was
23 states with ongoing proceedings, not states in which arbitration would be
24 conducted. Section II B is not relevant to arbitration , as MCI suggests.

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Further, Section I.B. of the Agreement states the following:

“The parties agree that (1) if the Federal Communications Commission (“FCC”) or a state public utilities commission or other state or local body having jurisdiction over the subject matter of this Agreement (“State Authority”) finds that the terms of this Agreement are inconsistent in one or more material respects with any of its or their respective decisions, rules or regulations promulgated, or (2) if the FCC or a State Authority preempts the effect of this Agreement, then in the event of the occurrence of (1) or (2), which occurrence is final and no longer subject to administrative or judicial review, the parties shall immediately commence good faith negotiations to conform this Agreement with any such decision, rule, regulation or preemption. ...”
(emphasis added)

These issues, therefore, must be dismissed from consideration in this proceeding.

Q. WHAT IS YOUR OVERALL RESPONSE TO MCI’S PETITION FOR ARBITRATION?

A. MCI’s Petition for Arbitration is linked to the approval of the Mediation Plus concept and is confusing. MCI’s Mediation Plus approach would have bifurcated the proceeding whereby many of the operational and technical details would be addressed separately from the main issues. Mediation Plus

1 was denied by this Commission for administrative efficiency reasons. In
2 reality, many of the issues put forth by MCI in Mediation Plus have actually
3 already been agreed upon in the continuing negotiation process. MCI
4 recognizes this in their petition and its attachments. MCI proposed that if
5 Mediation Plus was denied then the actual language of the agreed upon issues
6 had not been solidified and that each and every previously agreed upon issue
7 (and numerous technical sub-elements of each issue found in MCI's Exhibit
8 III) should be arbitrated. Basically, MCI has directed the Commission, and
9 BellSouth, to the choice of arbitrating "their way" or arbitrating "their way".
10 This clearly is not the intent of arbitration, which is to be limited to only those
11 items for which agreement cannot be reached. Negotiations, not arbitration, is
12 the process to use to finalize language and work out operational details as
13 recognized by this Commission in Order No. PSC-96-1107-PCO-TP issued on
14 August 29, 1996.

15

16 **II. BELLSOUTH'S DISCUSSION OF ISSUES IN THIS ARBITRATION**

17

18 Q. PLEASE DESCRIBE HOW BELLSOUTH INTENDS TO ADDRESS THE
19 ISSUES IN THIS SECTION.

20

21 A. At the conclusion of this proceeding, it is BellSouth's hope and intent that,
22 with the resolution of issues identified by the Commission, the parties can then
23 finalize a comprehensive agreement, in short order, to submit to this
24 Commission. In this testimony, I identify the issues and state the positions of
25 MCI, as we understand them, and of BellSouth. For some issues, I provide all

1 of BellSouth's testimony. In several cases, however, I defer more detailed
2 discussion to other BellSouth witnesses. For example, to the extent Mr.
3 Varner's testimony discusses the provisions of the FCC's Order I will not
4 repeat them here.

5
6 The issues in this section are organized under the major headings of A) Resale;
7 B) Interconnection; C) Unbundled Network Elements; and, D) Additional
8 Interconnection Requirements/Issues.

9
10 **A. RESALE**

11
12 **WHAT SERVICES PROVIDED BY BELLSOUTH, IF ANY, SHOULD**
13 **BE EXCLUDED FROM RESALE?**

14
15 **MCI Position:** The FCC Competition Rules require BellSouth to offer all
16 telecommunications services for resale. Resale means the provision to MCI of
17 any telecommunications service that BellSouth provides to end-user customers
18 who are not telecommunication companies.

19
20 **BellSouth Position:** In accordance with Section 251(c)(4)(A) of the Act,
21 BellSouth must "offer for resale at wholesale rates any telecommunications
22 service that the carrier provides at retail to subscribers who are not
23 telecommunications carriers; and (B) not to prohibit, and not to impose
24 **unreasonable or discriminatory conditions or limitations** on, the resale of such
25 telecommunications service, except that a State commission may, under this

1 section, prohibit a reseller that obtains at wholesale rates a telecommunications
2 service that is available at retail only to a category of subscribers from offering
3 such service to a different category of subscribers.” (emphasis added)

4
5 Once again, the plain wording of the Act is clear. BellSouth is to make
6 available its retail services for resale. BellSouth is permitted, however, to
7 impose reasonable and nondiscriminatory conditions and limitations on the
8 resale of its services, in addition to the explicit use and user restriction and the
9 joint marketing restriction specified in the Act. Certain options or service
10 offerings which are not retail services or have other special characteristics
11 should be excluded from resale.

12
13 As a preliminary conclusion, BellSouth believes that all of our proposed
14 service restrictions are permissible under paragraph 51.613(b) of the Rules,
15 because the restrictions that it proposes are narrowly tailored, reasonable, and
16 nondiscriminatory and, therefore, are permitted by the Order.

17
18 Q. PLEASE LIST EACH OF THE SERVICES OR OPTIONS IN DISPUTE
19 AND PROVIDE BELLSOUTH'S RATIONALE FOR ITS EXCLUSION
20 FROM RESALE.

21
22 A. **Obsoleted/Grandfathered Services** are no longer available for sale to, or
23 transfer between, end users, nor should they be transferable between providers.
24 The Company has made available new services to replace the existing services.
25 To the extent that MCI or any other competitor wishes to entice the customer

1 of a grandfathered service to change providers, it may do so by either reselling
2 the replacement service at a discount or by providing its own new service to
3 the customer through the purchase of unbundled network elements combined
4 with its own facilities. BellSouth does not agree with the FCC's conclusion on
5 this issue and believes this restriction is reasonable and nondiscriminatory,
6 permissible by the FCC's Order, and should be approved by this Commission.

7
8 **Contract Service Arrangements ("CSAs")** are utilized to respond to specific
9 competitive threats on a customer-by-customer basis and contain rates
10 established specifically for each competitive situation. It is completely
11 illogical for BellSouth to develop a customer-specific proposal containing non-
12 tariffed rates, only to have MCI walk-in, purchase the proposal from BellSouth
13 at a discount and offer the same proposal to the customer at a slightly lower
14 price than BellSouth had developed. Elimination of this restriction as
15 proposed by MCI effectively takes BellSouth out of the competition game and
16 ensures that MCI can win every customer-specific competitive encounter with
17 BellSouth. As with obsoleted/grandfathered services, if MCI wishes to entice
18 the customer to select MCI in lieu of BellSouth, MCI can purchase the
19 necessary service(s) to meet the customer's needs from BellSouth at the
20 wholesale rate and resell the service(s) alone or add additional value by
21 including other options or offerings. BellSouth does not agree with the FCC's
22 conclusion on this issue and believes this restriction is reasonable and
23 nondiscriminatory and should be approved by this Commission.

24
25 **Promotions** are not retail services. In most instances, they are simply limited

1 time waivers of nonrecurring charges. It would be completely illogical for
2 BellSouth to run promotions to attract customers, only to be required to give
3 MCI the same limited time waiver for nonrecurring charges, in addition to the
4 already discounted wholesale monthly recurring rate, so that MCI can attract
5 customers. In effect, BellSouth would be subsidizing MCI's marketing
6 program. If MCI wishes to conduct promotions, its stockholders should have
7 to bear the consequences just as BellSouth's do. Competitive advantage
8 should be earned in the marketplace, not given through an inappropriate resale
9 requirement or discount. The FCC Order agrees with BellSouth's position and
10 allows promotions used for 90 days or less and not in a continuous manner to be
11 restricted from resale.

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

23
24 N11 services, including 911 and E911, are not retail services provided to end
25 users. BellSouth provides N11 services to other companies or government

1 entities who in turn provide the actual service to end user customers. Thus,
2 BellSouth should not be required to offer these services for resale.

3

4 MCI has also raised a question concerning the resale of Public (Pay Telephone)
5 Access Line Service, and service offerings that include volume or term pricing
6 (beyond contract service arrangements). Whether it be negotiations or
7 arbitrations, both parties need to try to achieve a balanced approach. In light of
8 the FCC's Order and MCI's request, BellSouth believes that a balanced
9 outcome to the issue of resale service limitations would be to allow the
10 limitations BellSouth has described herein, but allow the resale of Public
11 Access Lines (with the caveat that they be used for its intended class of
12 service) and any generally available retail offering with term or volume
13 pricing.

14

15 Q. MCI, ON PAGE 33 OF ITS PETITION, STATES THAT "ALTHOUGH
16 BELLSOUTH HAS STATED TO MCI THAT IT WOULD NOT
17 CAPRICIOUSLY GRANDFATHER SERVICES IN AN ANTI-
18 COMPETITIVE MANNER, BELLSOUTH'S RECENT TARIFF FILING TO
19 OBSOLETE ESSX SERVICE CASTS GRAVE DOUBT ON THE
20 SINCERITY OF THAT ASSERTION" (FOOTNOTE 27). IS THIS
21 PORTRAYAL OF BELLSOUTH'S ACTIONS ACCURATE?

22

23 A. Absolutely not. BellSouth is not abusing the grandfathering process. Rather,
24 the Company is using this established process to honor subscriber contracts
25 and to provide reasonable options to its existing customers. The internal

1 decision to obsolete ESSX® service and Digital ESSX® service was made
2 almost three years before the first tariff filing to accomplish this was made.
3 Obsoleting ESSX services and replacing them with MultiServ was intended to
4 restructure the service to make it easier for customers to understand, and to
5 simplify sales, administration, and billing, and to provide a more feature-rich
6 service. To imply that BellSouth has or will use the grandfathering process to
7 gain a competitive advantage is pure conjecture.

8

9 Q. PLEASE DESCRIBE THE TARIFF FILING TO GRANDFATHER ESSX
10 AND DIGITAL ESSX.

11

12 A. With the grandfathering of ESSX service and Digital ESSX service, the sale of
13 new systems ceased. Existing customers who were under a Term Payment
14 Plan contract were allowed to retain their existing systems. The Company
15 committed to honor those contracts and allow the retention of the
16 grandfathered service until the contracts expired. These subscribers were also
17 allowed to add and delete features, lines, etc., on their systems until their
18 contract expired. Customers who were not under a current contract were
19 allowed to keep their ESSX service until a specific date.

20

21 When the tariff was initially introduced, there was no provision for customers
22 to retain their existing service. After concerns were expressed that customers
23 needed time to evaluate the new MultiServ offerings as well as other
24 telecommunications options available in the marketplace, the Company made
25 available a recast offer. This option allowed customers to recast their service

1 by entering into a written agreement no later than a date certain and retain their
2 current service for a period of time selected by the customer, up to three years
3 from the tariff effective date. Customers who were not under a contract of
4 greater than thirty-six (36) months in duration were given the option to extend
5 their ESSX service period to a maximum of 36 months. This recast option was
6 made available in all states. The customers who chose not to recast their
7 existing service and were no longer under contract were given a minimum of
8 ten months to make a decision regarding their telecommunications service.

9

10 Q. WAS THE GRANDFATHERING OF ESSX AND DIGITAL ESSX
11 SERVICE HANDLED ANY DIFFERENTLY THAN PAST INSTANCES OF
12 GRANDFATHERING SERVICES?

13

14 A. No. Whenever BellSouth has grandfathered a service, the Company has
15 attempted to address the needs of its customers.

16

17 Q. WILL MCI BE COMPETITIVELY DISADVANTAGED IF
18 GRANDFATHERED ESSX SERVICE IS NOT AVAILABLE FOR
19 RESALE?

20

21 A. Absolutely not. MCI will have the same opportunity to move ESSX customers
22 to MultiServ offerings as BellSouth. The current tariff for MultiServ permits
23 ESSX customers to change to MultiServ without incurring nonrecurring
24 charges or a termination liability. MCI will be able to utilize the same terms
25 and conditions when offering MultiServ via resale to existing ESSX customers.

1 Additionally, MCI can purchase MultiServ with the wholesale discount
2 applicable to resold services which gives MCI a pricing advantage. Similarly,
3 MCI can use their own facilities in combination with unbundled network
4 elements to offer unique services.

5
6 **WHAT TERMS AND CONDITIONS, INCLUDING USE AND USER**
7 **RESTRICTIONS, IF ANY, SHOULD BE APPLIED TO RESALE OF**
8 **BELLSOUTH SERVICES?**

9
10 MCI Position: BellSouth should be ordered to impose no use, user or other
11 restrictions that restrict or limit the resale of any of its services. (In footnote 15
12 on page 15, MCI does not object to specific restrictions that the state
13 Commission is permitted to allow. They do, however, misinterpret the Order
14 specific to the cross class of service resale whereby residential service may not
15 be resold to business customers. MCI indicates that cross class of service is
16 applicable only to flat-rate residential lines. The Order does not limit this to
17 flat-rate residential lines.)

18
19 BellSouth Position: Any use or user restrictions or terms and conditions found
20 in the relevant tariff of the service being resold should apply. Use and user
21 restrictions, as well as terms and conditions, are integral components of the
22 retail service that is being resold. These terms and conditions do not impose
23 unreasonable or discriminatory conditions on the resale of these services and
24 may be reflected in the rates being charged. Elimination of the terms and
25 conditions may affect the pricing or even the general availability of the service.

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The Company's assessment of the FCC's Order here is the same as it is for the previous issue. Section 51.613(b) allows an incumbent LEC to impose restrictions if it proves to the state commission that they are reasonable and nondiscriminatory. The terms and conditions limitations requested by BellSouth are reasonable and nondiscriminatory, permitted by the Rules, and should be allowed by this Commission.

Q. PLEASE EXPLAIN YOUR RATIONALE FOR RETAINING USE AND USER RESTRICTIONS AND TERMS AND CONDITIONS ON SERVICES AVAILABLE FOR RESALE.

A. First, the Act requires BellSouth to offer for resale any telecommunications service that it provides at retail to its subscribers. The rate for a particular offering varies based on the terms and conditions of the service. If the terms and conditions were different, the price would likely be different or the particular retail service might not even be offered. An example is Saver Service, which is a discounted toll service, priced based on the use of the retail end user. If it can be used by multiple end users and the usage aggregated, then the change in demand could certainly impact BellSouth's pricing of this service. Rates, terms and conditions are an integral part of the service.

In general, the terms and conditions contained in BellSouth's tariffs, along with the tariffed rates, are an integral part of the tariffed services. If the terms and conditions for a particular service were non-existent or different, BellSouth

1 might choose not to offer the service or the price would likely be different. The
2 Act requires that BellSouth make available for resale its retail
3 telecommunications services. The Act does not require that BellSouth offer its
4 retail services "minus their associated terms and conditions" or that BellSouth
5 create new retail services.

6
7 Second, use and user restrictions are basically class of service restrictions. The
8 Act specifically permits the Commission to apply such class of service or use
9 and user restrictions. Section 251(c)(4)(B) of the Act states that the LEC is
10 "not to prohibit, and not to impose unreasonable or discriminatory conditions
11 or limitations on, the resale of such telecommunications service, except that a
12 State commission may, consistent with the regulations prescribed by the
13 Commission under this section, prohibit a reseller that obtains at wholesale
14 rates a telecommunications service that is available at retail only to a category
15 of subscribers from offering such service to a different category of
16 subscribers." The most predominant use and user restriction in place today is
17 for basic residence and business service such that residence service cannot be
18 purchased at the lower residence rate and used for business purposes. This,
19 however, is certainly not the only restriction of this type.

20
21 If accepted, MCI's recommendation to eliminate cross class selling restrictions
22 would allow MCI to undermine the rate structure and rate levels for business
23 services by purchasing basic residence service and reselling it as basic business
24 service. A significant level of support for universal service is provided by
25 business services. Most, if not all, of that support would flow to MCI's

1 stockholders under MCI's proposal. The Act requires the resale of a service;
2 not just the picking and choosing of various prices. Such terms and conditions
3 including use or user restrictions do not pose any unreasonable or
4 discriminatory condition on MCI or any other reseller. Resellers will be able
5 to offer the same service under the same conditions that BellSouth offers the
6 service to its own customers. If MCI wishes to provide a service with different
7 terms and conditions than BellSouth's offering, or with different or no use or
8 user restrictions, it can do so by leasing unbundled features and combining
9 them with its own capabilities to provide the service.

10

11 Q SHOULD THERE BE ANY ADDITIONAL LIMITATIONS ON RESALE
12 OF SERVICES?

13

14 A. Yes. As stated in the Act, new entrants serving more than 5% of the nation's
15 presubscribed access lines, which includes MCI, AT&T and Sprint, are not
16 permitted to jointly market local exchange services obtained through resale,
17 with interLATA services until such time as the Bell Operating Company is
18 authorized to provide interLATA services in-region, or until thirty-six months
19 have passed since the date of enactment of the Act, whichever is earlier
20 (Section 271(e)(1) of the Federal Act). MCI seems to have omitted this
21 requirement of the Act in its discussions.

22

23 **SHOULD BELLSOUTH BE REQUIRED TO PROVIDE REAL-TIME**
24 **AND INTERACTIVE ACCESS VIA ELECTRONIC INTERFACES TO**
25 **PERFORM THE FOLLOWING: PRE-ORDERING, ORDER**

1 **PROCESSING, PROVISIONING AND INSTALLATION,**
2 **MAINTENANCE AND TROUBLE RESOLUTION, BILLING**
3 **(INCLUDING CUSTOMER USAGE DATA TRANSFER), LOCAL**
4 **ACCOUNT MAINTENANCE? IF SO, FOR WHAT PROCESSES AND**
5 **IN WHAT TIME FRAME SHOULD THEY BE DEPLOYED? WHAT**
6 **SHOULD BE THE METHODS AND PROCEDURES FOR DELIVERY**
7 **OF OPERATIONAL INTERFACES?**

8
9 **MCI Position:** BellSouth must provide real-time interactive electronic
10 interfaces to MCI as quickly as possible, but in any event by January 1, 1997,
11 as required by the FCC Competition Order.

12
13 **BellSouth Position:** BellSouth has made available or has under active
14 development electronic interfaces for ordering and provisioning, pre-ordering,
15 trouble reporting and billing data. For ordering and trouble reporting with
16 regard to unbundled elements, BellSouth is providing functionality similar to
17 the processes that have worked effectively in the exchange access world.
18 BellSouth has established interfaces to allow ALECs to obtain pre-ordering
19 information electronically. BellSouth has also provided electronic customer
20 usage data transfer and is modifying its original design to accommodate MCI's
21 requests.

22
23 The FCC also concludes in its Order that providing nondiscriminatory access
24 to operations support systems functions is technically feasible and that all

25

1 incumbent LECs that currently do not comply with this requirement must do so
2 as expeditiously as possible, but in any event no later than January 1, 1997.

3
4 The FCC appears to be in favor of the use of national standards so that all
5 transactions between telecommunications companies may be processed via
6 nationally standardized electronic gateways. The FCC proposes to monitor
7 closely the progress of industry organizations as they implement the rules
8 adopted in this proceeding.

9
10 As discussed in Ms. Calhoun's direct testimony, BellSouth has already made
11 available or has under accelerated development electronic operational
12 interfaces for ordering and provisioning, pre-ordering, trouble reporting, and
13 billing data and is in overall compliance with the FCC Order. The Company
14 believes, however, that January 1, 1997 is an unrealistic date to require
15 completion of this project. Should the FCC Order stand as is, BST would have
16 to provide all of the electronic operational interfaces identified in this issue by
17 January 1, 1997 to be in compliance. The implementation timeline for each
18 electronic interface is based on the complexity of the requirements associated
19 with that specific functionality. BellSouth has provided a realistic, firm
20 schedule based on the actual work to be done, as identified in the analysis and
21 design phase of system development.

22
23 BellSouth's existing electronic interfaces to support ALECs, as well as those
24 under development, are in overall compliance with the precepts described in
25 the FCC Order and in compliance with national standards, where they exist.

1 Where new standards will be required as a result of the FCC's Order, the
2 Company will continue its active role in the appropriate industry committees to
3 develop such standards.

4

5 **WHEN MCI RESELLS BELLSOUTH'S SERVICES, IS IT**
6 **TECHNICALLY FEASIBLE OR OTHERWISE APPROPRIATE TO**
7 **BRAND OPERATOR SERVICES AND DIRECTORY SERVICES**
8 **CALLS THAT ARE INITIATED FROM THOSE RESOLD SERVICES?**

9

10 MCI Position: BellSouth should brand with the MCI name BellSouth's
11 operator services and directory assistance services when calls are initiated from
12 resold services.

13

14 BellSouth Position: Branding is not required by the Act and is not required to
15 promote competition. BellSouth cannot offer branding for MCI or other
16 resellers when providing resold local exchange service because BellSouth will
17 not be able to distinguish calls of MCI resold customers from calls of
18 customers of other local resellers, or from BellSouth.

19

20 Paragraph 877 of the FCC Order states, "section 251(c)(4) does not impose on
21 incumbent LECs the obligation to disaggregate a retail service into more
22 discrete retail services. The 1996 Act merely requires that any retail services
23 offered to customers be made available for resale." Paragraph 51.613 (c) of the
24 Rules then states, inconsistently, that the failure by an incumbent LEC to
25 comply with reseller unbranding or rebranding requests is a restriction on

1 resale. The paragraph does goes on, however, to state that an incumbent LEC
2 may impose such a restriction if it proves to the state commission that the
3 restriction is reasonable and nondiscriminatory, such as by proving to a state
4 commission that the incumbent LEC lacks the capability to comply with
5 unbranding or rebranding requests.

6
7 As discussed in Mr. Milner's and Mr. Pecoraro's testimonies, BellSouth lacks
8 the capability to comply with the request even if it were otherwise appropriate.
9 The Company's position on this issue is, therefore, consistent with the FCC
10 Rules and should be adopted by this Commission.

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

23
24 **WHEN MCI RESELLS BELL SOUTH'S LOCAL EXCHANGE**
25 **SERVICE, IS IT TECHNICALLY FEASIBLE OR OTHERWISE**

1 **APPROPRIATE TO ROUTE 0+ AND 0- CALLS TO AN OPERATOR .**
2 **OTHER THAN BELLSOUTH'S SERVICE, TO ROUTE 411 AND 555-**
3 **1212 DIRECTORY ASSISTANCE CALLS TO AN OPERATOR OTHER**
4 **THAN BELLSOUTH'S, OR TO ROUTE 611 REPAIR CALLS TO A**
5 **REPAIR CENTER OTHER THAN BELLSOUTH'S?**

6
7 **MCI Position:** BellSouth must provide direct routing to MCI's operator
8 services and directory assistance services from resold services using the
9 identical digits BellSouth uses to route calls to its own operators, etc. This
10 issue is another version of the MCI routing issue, simply described from a
11 different perspective.

12
13 **BellSouth Position:** BellSouth will route calls to MCI's requested service if
14 MCI provides the appropriate unique dialing arrangements. BellSouth's retail
15 service includes access via specified 0, 411, and 611 dialing arrangements to
16 BellSouth's operator, directory assistance, and repair service. Therefore, the
17 resold services include the same functionalities. As stated previously, routing
18 of calls to various operator providers through the same dialing arrangements is
19 not technically feasible or otherwise appropriate.

20
21 The actual issue here appears to be whether BellSouth can offer selective
22 routing of calls that are made by customers of MCI when using a resold
23 BellSouth service. The assessment of this issue is the same as the assessment
24 on Issue 3(a). The Company has shown, in compliance with the FCC Rules,
25 that providing what is being requested by MCI is not technically feasible and,

1 therefore cannot be provided.

2

3 Q PLEASE EXPAND ON BELLSOUTH'S POSITION.

4

5 A. MCI has raised the routing issue as another resale issue. BellSouth will not
6 keep MCI from directing calls from resold services to MCI operators, repair or
7 directory assistance services. The issue is how the call is dialed, i.e., "0", as
8 opposed to some other code. MCI has publicized other options and customers
9 are already accustomed to dialing "00" and 1+800-XXX-XXXX for various
10 operator services. Similarly, customers dial different directory assistance
11 numbers by area code today. Repair in some states today is dialed on a seven-
12 digit basis rather than using three digits (611).

13

14 MCI also ignores a significant problem, i.e., how the end user would reach a
15 BellSouth operator should it desire to do so. For example, the customer is still
16 entitled to obtain BellSouth's intraLATA toll service if it so desires. Under
17 MCI's plan to route all calls to the MCI operator, it would be impossible for
18 the end user to reach the BellSouth operator. BellSouth's proposal gives the
19 customer the option to reach both BellSouth's and MCI's operators through
20 explicit dialing plans. MCI's plan would seem to offer the customer only one
21 choice.

22

23 MCI also fails to point out that, with intraLATA toll presubscription as it is
24 being implemented in Florida, an end user presubscribed to MCI for
25 intraLATA services, whether MCI is reselling that customer service or not,

1 will reach an MCI operator on any 0+ intraLATA toll call. As stated,
2 BellSouth's retail service includes access to BellSouth's operator, repair and
3 directory assistance service through specific dialing arrangements. Therefore,
4 the resold service includes these same functionalities. Routing calls to
5 multiple providers through the same dialing arrangements is not technically
6 feasible, as Mr. Milner discusses in detail in his testimony.

7
8 Finally, in requesting the same routing and dialing arrangements as BellSouth,
9 MCI is actually and inappropriately requesting a newly created hybrid service
10 that adds some type of unique routing capabilities, yet also continues to
11 employ all of BellSouth's capabilities via resale. Neither the FCC Order nor
12 the Act require BellSouth to create a new bundled retail service for resale or to
13 create capabilities when there are reasonable options readily available. The
14 best solution is for MCI to provide different dialing arrangements or lease
15 unbundled elements to combine with its own switch capabilities to provide
16 access to its operator or repair functions.

17

18 Q. DO YOU EXPECT THAT NEW DIALING ARRANGEMENTS FOR
19 OPERATOR SERVICES, DIRECTORY ASSISTANCE, OR REPAIR
20 CALLS WILL CAUSE CONFUSION?

21

22 A. No. BellSouth believes that customers are more adept than MCI implies. The
23 customer confusion or competitive disadvantage issue raised by MCI is non-
24 existent. Interestingly, BellSouth at one time used seven-digit numbers to
25 reach repair and moved to a three digit code without causing any particular

1 problems. Today, large business customers in Florida dial unique seven digit
2 numbers and not 611. Currently, customers have available to them an array of
3 dialing arrangements to place operator type calls. Given the number of carriers
4 and calling arrangements provided, it is doubtful that customers would be
5 particularly confused by dialing "00" to reach an operator or a different seven
6 digit number to reach a repair center. The issue is even further simplified by
7 the propensity of inexpensive handsets with speed dialing capabilities which
8 can be programmed with "1" for operator, "2" for telephone repair, and "3" for
9 directory assistance. Indeed, it may be substantially cheaper to equip all
10 "potentially confused" customers with an inexpensive telephone, than to
11 replace all of BellSouth's switches to accomplish what MCI has in mind.

12

13 By further example of dialing differences, MCI provides, in addition to access
14 to its operators, MCI calling cards. With this card the customer is instructed
15 to:

16

17 dial an 11 digit access number and listen for the chime;

18

19 then a MCI card number (also 11 digits), then a PIN code (4 digits)

20

while listening for the double tone; and finally,

21

22

the number they are trying to reach (Area code first - 10 digits).

23

24 In essence, MCI customers that use their calling cards are trained in dialing 26
25 extra digits to place a long distance call! End users are becoming increasingly

1 more adept at selecting carriers, cards and dialing arrangements when placing
2 calls from home, business, public pay telephones, etc. MCI's purported
3 "concern" over customer confusion seems to be inconsistent with the current
4 realities of the marketplace and MCI's own practices.

5

6 Q. ASIDE FROM TECHNICAL FEASIBILITY, IS MCI'S REQUEST FOR
7 DIRECT ROUTING APPROPRIATE?

8

9 A. No. Such routing is not required by the Act. What MCI is requesting is that
10 BellSouth create and offer a new basic local exchange retail service and make
11 it available for resale - one that does not include access to BellSouth's Operator
12 Services or its Directory Assistance Services. As I indicated earlier in my
13 discussion concerning the enforcement of existing terms and conditions in
14 BellSouth's tariffs, the Act requires that BellSouth make its retail services
15 available for resale. The Act does not require BellSouth to offer its retail
16 services for resale without capabilities dictated by the purchaser or that
17 BellSouth create new retail services. Further, the Act does not permit MCI to
18 apply the concept and requirement of unbundling to a resold BellSouth retail
19 service. Resale and unbundling are not the same, regardless of MCI's desires.
20 If MCI wishes to offer a unique basic local exchange service that includes
21 direct access to its platforms, MCI can purchase unbundled network elements
22 from BellSouth and combine them with its own platforms.

23

24 **WHEN BELLSOUTH'S EMPLOYEES OR AGENTS INTERACT WITH**
25 **MCI'S CUSTOMERS WITH RESPECT TO A SERVICE PROVIDED**

1 **BY BELLSOUTH ON BEHALF OF MCI, WHAT TYPE OF**
2 **BRANDING REQUIREMENTS ARE TECHNICALLY FEASIBLE OR**
3 **OTHERWISE APPROPRIATE?**

4
5 MCI Position: BellSouth should be required to provide branding in all
6 situations where BellSouth employees or agents interact with MCI customers
7 with respect to the provision of resold BellSouth services or unbundled
8 elements provided to end users on behalf of MCI.

9
10 BellSouth Position: BellSouth service technicians will advise customers that
11 they are providing service on behalf of MCI. Service technicians will not
12 provide customer information provided by MCI, but will provide generic
13 access cards with the appropriate provider's name (MCI). BellSouth
14 personnel, when providing services on behalf of MCI, will not market
15 BellSouth Services directly or indirectly to MCI customers.

16
17 Q. PLEASE PROVIDE AN EXPLANATION OF YOUR POSITION.

18
19 A. In most instances, BellSouth does not expect to communicate with the end user
20 customer regarding resold services, but will be communicating with the
21 reseller regarding such services. Those individuals who must have customer
22 contact, such as service technicians making installations or repairs at the
23 customers' premises, have been trained to advise the end user that they are
24 acting on behalf of the reseller.

25

1 Q. MCI CLAIMS THAT, TO AVOID CONFUSION, BELLSOUTH
2 PERSONNEL SHOULD REPRESENT THEMSELVES AS MCI ON
3 REPAIR CONTACTS. PLEASE COMMENT.

4
5 A. As stated previously, in these limited contacts, BellSouth employees will
6 represent themselves as providing service on behalf of MCI, not as MCI.
7 Representing themselves as MCI would be inaccurate possibly deceitful and
8 may appear to create more confusion rather than less, especially if the customer
9 knows that the underlying provider of local service is BellSouth. This
10 condition is fairly common in the IXC arena where a reseller may state who the
11 underlying service provider is. Further, in the era of "outsourcing," it is
12 common to contract with one entity, only to have the work performed by
13 another. This is a common practice which appears to work quite well, e.g.,
14 Home Depot, cable companies, carpet companies, heating and air conditioning.
15
16 Finally, there would be additional costs to provide the branding that MCI has
17 requested. Costs would be incurred, not avoided, to meet many of MCI's
18 requests for branding.

19
20 **SHOULD BELLSOUTH BE REQUIRED TO PROVIDE NOTICE TO**
21 **ITS WHOLESALE CUSTOMERS OF CHANGES TO BELLSOUTH'S**
22 **SERVICES? IF SO, IN WHAT MANNER AND IN WHAT TIME**
23 **FRAME?**

24
25 MCI Position: MCI requires that BellSouth communicate knowledge of any

1 engineering changes associated with BellSouth's network elements,
2 deployments of new technologies, or changes to its retail services as soon as
3 they are known to BellSouth. While BellSouth appears to agree in principle to
4 advance notification, there is no agreement on the timing or the manner of
5 notification.

6
7 BellSouth Position: BellSouth agrees that this issue is essentially resolved.
8 BellSouth will provide scheduled notices to MCI and all other carriers
9 concerning network changes that can impact interconnection or network
10 unbundling arrangements. Further, regularly scheduled joint engineering
11 meetings, coupled with typical tariff notification for retail and resold services,
12 will provide adequate time for MCI to make any necessary changes.

13 It appears that the Order confirms BellSouth's position and, therefore, should
14 be adopted by this Commission. The Resale section of the Rules does not
15 address this issue specifically and no reference is found in the Order. The
16 Rules do state in Paragraph 51.603(b), "[a] LEC must provide services to
17 requesting telecommunications carriers for resale that are equal in quality,
18 **subject to the same conditions, and provided within the same provisioning**
19 **time intervals** (emphasis added) that the LEC provides these services to
20 others, including end users."

21
22 **SHOULD PREFERRED INTEREXCHANGE CARRIERS (PIC)**
23 **CHANGES RECEIVED FROM IXC_s BE TREATED DIFFERENTLY**
24 **FOR A BELLSOUTH EXCHANGE SERVICE BEING RESOLD BY**
25 **MCI THAN FOR A BELLSOUTH RETAIL EXCHANGE SERVICE?**

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MCI Position: BellSouth should be prohibited from implementing any PIC changes for services resold by MCI except in response to a request submitted to it through MCI.

BellSouth Position: BellSouth plans to handle PIC requests for all resellers under the same guidelines and framework used to handle PIC requests today for IXCs.

The FCC Rules do not specifically address the PIC. Paragraph 51.603 (a), however, states that services must be made available for resale on terms and conditions that are reasonable and non-discriminatory. Further, Paragraph 51.603(b) states, “[a] LEC must provide services to requesting telecommunications carriers for resale that are equal in quality, subject to the same conditions, and provided within the same provisioning time intervals that the LEC provides these services to others, including end users.” Acceptance of MCI’s position, that BellSouth not process long distance carrier designation changes sent to BellSouth for MCI customers served by resold services, certainly would not appear to be in compliance with the nondiscriminatory language of the Rules, and would appear to, in fact, give MCI an unfair competitive advantage.

Q. WHY HAS BELLSOUTH REFUSED TO COMPLY WITH MCI’S REQUEST TO REJECT ALL PIC CHANGES INITIATED BY OTHER IXCs FOR MCI’S RESALE CUSTOMERS?

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A. BellSouth believes that the local service offered by BellSouth for resale includes the capability for IXCs, with proper end user authorization, to change the PIC on the resold line via the industry's mechanized interface, known as "CARE". Throughout the industry, PIC changes are made by the IXCs via an electronic CARE system. For example, if a customer chooses an IXC other than MCI for its long distance service, that IXC today would electronically notify BellSouth of the PIC change through CARE, and BellSouth would update the line records accordingly. In a resale environment, however, if another IXC succeeded in being selected as the pre-subscribed IXC for an MCI local customer, MCI would prefer that BellSouth reject the mechanized CARE transaction from the other IXC, notify MCI, and await a local service request from MCI before processing the PIC change.

There are problems with MCI's approach. MCI is asking for extraordinary treatment that would raise the issue of parity among the IXCs. Further, implementation of MCI's proposal would appear to hinder a customer's ability to choose their preferred interexchange carrier. Resale has always had the intended purpose of helping competition, not hindering it. Complying with MCI's request would place BellSouth in the position of refusing properly processed PIC change requests from its other IXC customers. Further, MCI's request also would needlessly increase the volume of local service requests submitted by MCI to BellSouth. BellSouth believes this Commission should recognize the continued use of the mechanized CARE process as the appropriate vehicle for processing PIC changes in a local resale environment.

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Nonetheless, to accommodate MCI's concerns about maintaining current information about its end users' accounts, including PIC information, BellSouth is analyzing the feasibility of a separate electronic process that would notify an ALEC that a PIC change has occurred on a resold line. Of course, cost recovery for that interface must be addressed.

Q. PLEASE DESCRIBE HOW BELLSOUTH PLANS TO PROCESS PIC CHANGES FOR CUSTOMERS OF LOCAL RESOLD SERVICES.

A. Existing tariffed processes, procedures, and charges provide the framework for changes of intraLATA or interLATA presubscription for customers of record of ALECs operating as resellers.

When MCI is a reseller of BellSouth's local service for the provision of local service to its end user customers, MCI becomes BellSouth's customer of record for that line. For these situations, BellSouth will accept PIC changes from MCI as the customer of record or from other IXCs. All applicable charges associated with intraLATA and/or interLATA PIC changes would apply. To process PIC changes differently for MCI than for other resellers could create parity issues among the IXCs.

The Company's proposed terms and conditions are both reasonable and nondiscriminatory towards all competitors, not just MCI, and should be adopted by this Commission. This issue is not specifically addressed by the

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FCC's Order.

**WHAT ARE THE APPROPRIATE WHOLESALE RATES FOR
BELLSOUTH TO CHARGE WHEN MCI PURCHASES
BELLSOUTH'S RETAIL SERVICES FOR RESALE?**

MCI Position: The FCC Competition Rules require BellSouth's wholesale price for resold services to reflect all costs that reasonably can be avoided by BellSouth when services are provided on a wholesale basis. The FCC Rules permit a state commission to establish interim wholesale rates that are between 17% and 25% below the incumbent LEC's existing retail rates. The wholesale price adjustment in this case should be set at the top end of the default range established by the FCC Competition Rules, or at such higher level as is supported by the record in this proceeding.

BellSouth Position: The Act requires that rates for resold services shall be based on retail rates minus the costs that will be avoided due to resale. BellSouth proposes a discount to be applied to both residential and business services based on avoided cost studies.

The Company believes that its avoided cost study filed with the testimony of Walter Reid is in compliance with the Federal Act. Even though BellSouth disagrees with the FCC Rules, Mr. Reid's testimony also includes an avoided cost study developed under the FCC rules.

1 Q. WHAT IS THE BASIS IN THE RATIONALE FOR BELLSOUTH'S
2 POSITION?

3

4 A. Section 252(d)(3) prescribes the following:

5

6 "...a State commission shall determine wholesale rates on the basis of retail
7 rates charged to subscribers for the telecommunications service requested,
8 excluding the portion thereof attributable to any marketing, billing, collection,
9 and other costs that will be avoided by the local exchange carrier." (emphasis
10 added). For every dollar of revenue foregone through the wholesale discount,
11 the company loses a corresponding dollar of cost. If the avoided cost discount
12 is calculated correctly, the company offering services for resale should be no
13 worse off by selling on a wholesale basis than it would have been if it offered
14 the service to its own end users. This methodology, or "tops-down" approach,
15 also takes into account the fact that an incumbent's rates are not necessarily
16 cost-based and may reflect social pricing considerations, such as support for
17 universal service.

18

19 The language of the Act is very clear. It limits the adjustment to retail rates to
20 only those costs that will in fact be avoided. The adjustment does not include
21 costs that may be avoidable or costs that a competitor wishes were avoidable or
22 adjustments for any reason other than costs that will be avoided costs.

23

24 **B. INTERCONNECTION**

25

1 **WHAT ARE THE APPROPRIATE TRUNKING ARRANGEMENTS**
2 **BETWEEN MCI AND BELLSOUTH FOR LOCAL**
3 **INTERCONNECTION?**

4
5 MCI Position: It appears by this issue that MCI requests requires the
6 flexibility to combine both local and intraLATA traffic over a single trunk
7 group where such combination enables MCI to increase the efficiency with
8 which such trunk groups are utilized. In the eventuality that there is good
9 reason for traffic separation, then the carrier receiving the traffic should
10 determine the types of traffic that can be combined (e.g., local, intraLATA toll,
11 interLATA access). Other issues, such as two way trunking, may be part of
12 this issue but it is impossible to tell based on the references included in MCI's
13 submission.

14
15 BellSouth Position: Each interconnecting party should have the right to
16 determine the most efficient trunking arrangements for its network. Parties
17 should be free to work together and establish mutually agreeable arrangements,
18 however, such arrangements should not be mandated. These issues are
19 discussed in more detail in Mr. Atherton's testimony.

20
21 Q. GIVEN THE MAY 15, 1996 AGREEMENT BETWEEN BELLSOUTH AND
22 MCI, IS THIS ISSUE SUBJECT TO ARBITRATION?

23
24 A. No. The partial agreement, Exhibit II of MCI's Petition for Arbitration,
25 already covers the agreed upon trunking arrangements and as stated previously

1 issues covered by that agreement are not appropriate for arbitration.. As is
2 clearly indicated by the language of the Agreement, which has been approved
3 by this Commission, Section III.E.(2) of the Agreement states that the parties
4 will mutually agree to trunking arrangements. This issue, therefore, must be
5 dismissed from consideration in this proceeding.

6

7 **WHAT SHOULD THE COMPENSATION MECHANISM FOR THE**
8 **EXCHANGE OF LOCAL TRAFFIC BE BETWEEN MCI AND**
9 **BELLSOUTH?**

10

11 MCI Position: The Commission should reaffirm its prior decision in Order No.
12 PSC-96-0445-FOF-TP that mutual traffic exchange is the appropriate method
13 of compensation for the exchange of local traffic. In the event that the
14 Commission ultimately imposes a specific charge for local interconnection, as
15 a result of BellSouth prevailing in its appeal of the referenced order, the
16 Commission must set the rate for the interconnection equal to Total Element
17 Long Run Incremental Cost (TELRIC). For any interim period for which a
18 rate must be set, the Commission should apply the lower end of the FCC's
19 default proxy range for termination of local traffic.

20

21 In its August 8, 1996 Order, the FCC specifically approved the use of mutual
22 traffic exchange in cases where a state has either found, or adopted a
23 presumption, that a traffic balance exists and will continue. Alternatively, a
24 state is permitted either to set the rate at TELRIC, based on a cost study which
25 complies with the FCC-prescribed methodology, or to use FCC default rates

1 for transport and termination on an interim basis pending the completion of
2 such a study.

3
4 BellSouth Position: The rate for the transport and termination of traffic should
5 be set with recognition of the intrastate switched access rate. BellSouth has
6 negotiated interconnection rates based on these charges exclusive of the
7 residual interconnection charge (RIC) and carrier common line (CCL) charge
8 with a 105% cap applied on usage. The Act does not authorize a commission
9 to mandate that a party accept bill-and-keep as the method of interconnection,
10 eliminating the right to recover its costs.

11

12 Q. GIVEN THE MAY 15, 1996 AGREEMENT BETWEEN BELLSOUTH AND
13 MCI IN WHICH MCI AGREED TO A LOCAL INTERCONNECTION
14 RATE, IS THIS ISSUE SUBJECT TO ARBITRATION?

15

16 A. No. This issue is covered by the BellSouth MCI agreement and for the reasons
17 stated previously not subject to arbitration. There is no ambiguity in the
18 agreement because the rates are clearly set forth. Further, as is clearly
19 indicated by the language of the Agreement stated earlier, until BellSouth
20 exhausts all avenues of administrative or judicial review, MCI must abide by
21 the terms of Section III. and Attachment A of the Agreement, unless modified
22 pursuant to Section I.C.

23

24 Q DID THE FCC'S RECENT ORDER ADDRESS THIS ISSUE?

25

1 A Yes. Paragraph 51.705 of the Rules says that rates for transport and
2 termination of local telecommunications traffic are to be established, at the
3 election of the state commission, on the basis of: 1) the forward-looking
4 economic costs of such offerings, using a cost study pursuant to the Rules; 2)
5 default proxies as provided in the Rules; or 3) a bill-and-keep arrangement.

6
7 The rules for the forward-looking economic cost-based studies referred to in
8 these sections are the same as those provided for unbundled network elements.
9 Paragraph 51.713 of the Rules also gives the state commission the option to
10 impose a bill-and-keep arrangement for reciprocal compensation if the
11 commission determines that the amount of local telecommunications traffic
12 from one network to the other is roughly balanced with the traffic flowing in
13 the opposite direction, and is expected to remain so, and there has been no
14 showing that rates should be asymmetrical.

15
16 If the state commission determines that the cost information available to it with
17 respect to interconnection and transport and termination does not support
18 adoption of rates that are consistent with the cost study procedures set forth in
19 the Rules, it may establish rates for interconnection consistent with proxies
20 specified in Paragraph 51.513 of the Rules or rates for transport and
21 termination consistent with proxies specified in Paragraph 51.707 of the Rules.
22 Any rate established in this manner is superseded once the state commission
23 establishes rates based on an appropriate study or on a bill-and-keep
24 arrangement for transport and termination.

25

1 If the Order stands as issued, BellSouth will have to perform and submit cost
2 studies to support its proposed rates, pursuant to the guidelines set forth in the
3 Rules. No such cost studies are currently available.

4
5 Until such time as cost studies are submitted and approved, the Commission
6 may set rates based on the default proxies provided in the Rules. The rates
7 proposed by BellSouth are different than the default proxies provided in
8 Paragraphs 51.513 and 51.707 of the Rules. Before using these, or any
9 proxies, the FPSC should determine whether or not these proxies are consistent
10 with the Act.

11
12 In addition, the Rules give the Commission the option of ordering a bill-and-
13 keep arrangement with regard to transport and termination. As BellSouth has
14 repeatedly stated and demonstrated, bill-and-keep is not an appropriate cost
15 recovery arrangement. BellSouth does not believe that the Act permits bill-
16 and-keep to be mandated. Certainly if mandating bill-and-keep is not
17 authorized by the Act, it is not appropriate for the FCC's Order to allow state
18 commissions to mandate such arrangements.

19
20 Q. IS THE RECIPROCAL TRANSPORT AND TERMINATION RATE FOR
21 LOCAL CALLS CONTAINED IN THE MCI AGREEMENT
22 REASONABLE?

23
24 A. Yes. BellSouth believes the local interconnection rate should be based on the
25 intrastate switched access rate to the extent possible. The components of local

1 interconnection and toll access are functionally equivalent, and therefore, the
2 rate structure should be similar. This conclusion seems to be accepted by MCI
3 and BellSouth. Basing the local interconnection rate on the switched access
4 rate will facilitate the transition of all interconnection types into a single
5 interconnection rate. As technology changes, competition increases, and
6 interconnection types (e.g., local, toll, independent, cellular/wireless) become
7 more integrated. Such a transition is imperative.

8
9 BellSouth has reached agreements with other carriers that include a local
10 interconnection rate based on the current switched access rate minus any non-
11 traffic sensitive rate elements. In Florida, the resulting negotiated reciprocal
12 compensation rate averages approximately \$0.01 per minute.

13
14 Q. HOW DOES MCI'S NEGOTIATED RATE COMPARE TO OTHER
15 AGREEMENTS NEGOTIATED BY OTHER REGIONAL COMPANIES?

16
17 A. A compelling piece of evidence as to the reasonableness of the rate agreed to
18 by MCI and BellSouth is the agreement MFS reached with Ameritech. MFS
19 agreed to a local interconnection rate of \$0.009 per minute which is clearly in
20 line with MCI's rate of \$0.011 and the \$0.01 BellSouth average rate.

21
22 Q. DOES THE NEGOTIATED RATE MEET THE PRICING STANDARDS IN
23 SECTION 252(d) of THE ACT?

24
25 A. Yes. The Act outlines pricing standards for the transport and termination of

1 traffic such that the terms and conditions for reciprocal compensation are
2 considered just and reasonable when:

3

4 “(i) such terms and conditions provide for the mutual and reciprocal
5 recovery by each carrier of costs associated with the transport and
6 termination on each carrier’s network facilities of calls that originate on
7 the network facilities of the other carrier; and, (ii) such terms and
8 conditions determine such costs on the basis of a reasonable
9 approximation of the additional costs of terminating such calls.”

10 Section 252(d)(2)(A).

11

12 BellSouth’s average local interconnection rate of \$0.01 per minute meets that
13 standard in that it allows for the recovery of BellSouth’s costs and is
14 reasonable. The reasonableness of BellSouth’s rate is further demonstrated by
15 the agreements that BellSouth has reached with other facilities-based carriers.
16 Companies such as Time Warner, Intermedia Communications Inc., and others
17 have found BellSouth’s rates to be reasonable, allowing them a fair opportunity
18 to compete for local exchange customers. If the rates these companies agreed
19 to were not reasonable, they would not have signed an agreement, but would
20 have filed for arbitration of the local interconnection rate.

21

22 Q. PLEASE EXPLAIN WHY BELLSOUTH SUPPORTS A CAP ON
23 INTERCONNECTION COMPENSATION.

24

25 A. A cap on local interconnection means that neither interconnecting party would

1 be required to compensate the other more than a specified percent of the total.
2 billed local interconnection minutes of use of the party with the lower total
3 minutes of use. In effect, a cap provides financial stability for an
4 interconnecting party in circumstances where an imbalance in the traffic flow
5 could exist. In those situations where traffic is virtually in balance, as might be
6 expected between two wireline local exchange carriers, the cap would not
7 impact the billing amounts. As such, the cap can, indeed, provide for an
8 adequate recovery of costs.

9
10 Early in the negotiating process BellSouth became aware that many of the
11 parties wanted this cap. Since that time, each agreement BellSouth has signed
12 with another party has contained a cap on local interconnection minutes of use
13 compensation. These agreements have two or three year terms and items such
14 as the cap can be renegotiated at that time. BellSouth believes that this is a
15 reasonable approach for all parties in order to provide some stability during the
16 start-up phase of competition.

17
18 Q. DOES BELLSOUTH AGREE WITH MCI'S POSITION THAT BILL-AND-
19 KEEP SHOULD BE IMPLEMENTED AS A COMPENSATION
20 MECHANISM FOR LOCAL INTERCONNECTION?

21
22 A. No. BellSouth recognizes that the Florida Commission ordered bill-and-keep
23 for local interconnection in Docket No. 950985-TP. BellSouth disagrees with
24 that decision and with the Commission's denial of BellSouth's request for
25 reconsideration on the bill-and-keep provision. BellSouth plans to appeal that

1 decision.

2

3 First, and most fundamentally, although I am not a lawyer, it is my
4 understanding that mandatory bill-and-keep violates Section 252 of the Act.
5 The Act clearly allows negotiating parties to relinquish the mutual recovery of
6 costs voluntarily should they so desire and enter voluntarily into bill-and-keep
7 arrangements. The Act does not authorize a state commission to mandate that
8 a party accept bill-and-keep as the method of cost recovery.

9

10 Second, as mentioned above, with this arrangement there is no mechanism for
11 the recovery of costs associated with the termination of local calls. For
12 example, if it costs BellSouth three cents a minute to terminate a local call and
13 it costs a new entrant five cents a minute to terminate a local call, this
14 arrangement will not allow either party to recover its costs. At best, in the
15 situation illustrated, if the traffic were perfectly balanced, the carrier with the
16 lower cost might be able to conclude that it was somehow okay because the
17 payments it avoided making to the other carrier exceeded its own costs. Using
18 the numbers above, however, the new entrant would be unable to recover the
19 net difference of two cents per minute under any theory. This problem could
20 be accentuated if there is a traffic imbalance.

21

22 Third, a compensation arrangement of this type prevents BellSouth from being
23 compensated for access to, and use of, its valuable, ubiquitous network. Also,
24 it does not recognize different types of technical interconnection arrangements
25 that may exist. Because there will be varying interconnection arrangements,

1 there must be a way to differentiate the charges based upon these differences.
2 Under bill-and-keep, there would be no way to differentiate the charges and
3 this would discourage the development of efficient networks by the new
4 entrants. New entrants would simply take advantage of the functionalities in
5 BellSouth's network, having no incentive to build their own capabilities
6 because they could obtain them for free from BellSouth.

7
8 Fourth, the distinction between local and toll calls can no longer be assured.
9 The industry must move to a common interconnection structure. Bill-and-keep
10 cannot serve that function. Adoption of bill-and-keep will undermine long
11 distance competition as well as local competition.

12
13 Fifth, it should be noted that bill-and-keep does not eliminate the need for
14 billing and administrative systems. There will continue to be a need to hand-
15 off toll and 800 traffic to interexchange carriers, to LECs and to new entrants,
16 which will require the billing of switched access rates. Because new entrants
17 will bill switched access to many different carriers, BellSouth's proposal to
18 apply switched access elements for local interconnection places no significant
19 additional billing requirements on new entrants.

20
21 Finally, bill-and-keep establishes an inappropriate arrangement between
22 competing carriers. Bill-and-keep is similar to a barter arrangement, which is
23 not a typical method used for compensating businesses for services provided.

24
25 **DO THE PROVISIONS OF SECTIONS 251 AND 252 APPLY TO THE**

1 **PRICE OF EXCHANGE ACCESS? IF SO, WHAT IS THE**
2 **APPROPRIATE RATE FOR EXCHANGE ACCESS?**

3
4 **WHAT INTRASTATE ACCESS CHARGES, IF ANY, SHOULD BE**
5 **COLLECTED ON A TRANSITIONAL BASIS FROM CARRIERS WHO**
6 **PURCHASE BELLSOUTH'S UNBUNDLED LOCAL SWITCHING**
7 **ELEMENT? HOW LONG SHOULD ANY TRANSITIONAL PERIOD**
8 **LAST?**

9
10 MCI Position: The FCC Competition Rules prohibit either interstate or
11 intrastate access charges from being imposed on a carrier who offers local
12 exchange service or exchange access service through the use of unbundled
13 network elements. During a specified transitional period, ending no later than
14 June 30, 1997, BellSouth can collect from carriers who purchase BellSouth's
15 unbundled local switching, the interstate CCLC and 75% of the interstate RIC.
16 The FCC Competition Order permits states to also impose a transitional access
17 charge on top of the unbundled switching charge, to the extent that the state
18 finds that such a charge is necessary to ensure that universal service goals are
19 not jeopardized prior to the issuance of the FCC's implementation of Sections
20 254 and 214(e) of the Telecommunications Act of 1996, which require the
21 establishment of a competitively-neutral universal service mechanism.
22 However, the state transitional charge, like the interstate transitional charge,
23 must terminate no later than June 30, 1997. MCI believes that universal
24 service in Florida will not be jeopardized by the availability of unbundled
25 network elements at economic cost in the short interim between resolution of

1 this arbitration and implementation of the FCC's universal service plan.
2 Therefore, MCI opposes any requirement that requires new entrants to pay the
3 state equivalent of the interstate CCLC or RIC for a transitional period. MCI
4 further believes that the burden of proof that such charges are required should
5 be on BellSouth. Additionally, in order to comply with the Act, access charges
6 for both switched and special access must be reduced to TSLRIC as quickly as
7 possible, but in no event later than the date that BellSouth obtains in-region
8 interLATA authority.

9
10 BellSouth Position: Sections 251 and 252 of the Act do not apply to the price
11 of exchange access, and in general, the FCC's Order changes nothing with
12 regard to the assessment of access charges. Further, MCI is attempting to
13 arbitrate the applicability of the FCC's Order to all carriers in Florida. Such an
14 issue is not appropriate for an arbitration proceeding. To the extent this issue is
15 to be resolved, the Commission can initiate an appropriate proceeding which
16 can include the involvement of all pertinent parties.

17
18 Regardless of which proceeding is involved, the FCC's Order is nevertheless
19 very clear on the issue of access charges and leaves nothing to debate.

20
21 Regarding the interstate transitional charge applicable to purchasers of
22 unbundled network elements, the charges are only applicable on those services
23 to which they already apply (i.e., interstate and intrastate toll traffic).
24 Effectively, purchasers of unbundled network elements will receive an access
25 charge reduction amounting to 25% of the Residual Interconnection Charge.

1 The FCC's Order allows BellSouth to assess the interim surcharge on intrastate
2 toll minutes of use for the same time period as the interstate charge unless the
3 state commission makes a decision that the incumbent cannot assess such
4 charges.

5

6 Further the FCC's Order was adopted on August 8, 1996, while the
7 negotiations with MCI began months earlier. The items in the Order could not
8 have been "negotiated" based on the timing of the two events, (i.e., the
9 initiation of negotiations and the adoption of the Order). As a practical matter,
10 BellSouth cannot "negotiate" an FCC Order with an individual party.

11

12 Q. WHAT IS THE RATIONALE FOR BELLSOUTH'S POSITION
13 REGARDING INTRASTATE SWITCHED ACCESS PRICING?

14

15 A. The Act explicitly addresses resale, unbundling and local transport and
16 termination services and the associated pricing standards that the Commission
17 should use for arbitration. Switched access is not a new or insignificant
18 service because it represents more than three billion dollars annually for
19 BellSouth. If the intent of Congress was to change the pricing or structure for
20 switched access, it would have explicitly identified these requirements in the
21 Act. No such requirements are included in the Act.

22

23 This is not to say that the Act is totally silent on access matters -- quite the
24 contrary. The Act spells out that, in designing arrangements between the
25 incumbent and new LECs, provisions should include the ability of exchanging

1 both local and access traffic. BellSouth's negotiated agreements explicitly
2 cover meet point, technical and billing arrangements associated with access
3 services. Why? Because the Act requires it. Further, not one of the twenty
4 agreements already signed includes any negotiated access charges or
5 arrangements similar to what MCI believes is needed.

6
7 The Act also states clearly that incumbent LECs must continue to meet their
8 obligation to provide access to IXCs consistent with regulatory requirements.
9 This provision presumably prohibits an incumbent's ability to interfere with
10 the long distance market by withdrawing some or all of its existing access
11 offerings. With this level of specificity on so many access issues, how can one
12 expect that the need to negotiate access would not have been clearly spelled
13 out? In fact, the FCC confirms this conclusion in its recognition of the need
14 for a proceeding on access reform.

15
16 Q. SHOULD THIS COMMISSION PROHIBIT BELLSOUTH FROM
17 CHARGING THE EQUIVALENT OF THE INTERSTATE TRANSITIONAL
18 CHARGE FOR INTRASTATE TOLL MINUTES OF USE?

19
20 A. Absolutely not. This Commission has already recognized the need for state
21 support for universal service and must allow BellSouth to assess an equivalent
22 charge until such time as final universal support procedures are finalized or no
23 later than June 30, 1997.

24
25 **C. UNBUNDLED NETWORK ELEMENTS**

1

2 Q. ARE THE FOLLOWING ITEMS CONSIDERED TO BE NETWORK
3 ELEMENTS, CAPABILITIES, OR FUNCTIONS? IF SO, IS IT
4 TECHNICALLY FEASIBLE FOR BELLSOUTH TO PROVIDE MCI
5 WITH THESE ELEMENTS? (NETWORK INTERFACE DEVICE,
6 LOOP DISTRIBUTION, LOOP CONCENTRATOR/MULTIPLEXER,
7 LOOP FEEDER, LOCAL SWITCHING, OPERATOR SYSTEMS,
8 DEDICATED TRANSPORT, COMMON TRANSPORT, TANDEM
9 SWITCHING, SIGNALING LINK TRANSPORT, SIGNAL TRANSFER
10 POINTS, SERVICE CONTROL POINTS/DATA BASES)

11

12 MCI Position: MCI is requesting the following unbundled network elements:

13

14 Unbundled Local Loops

- 15 - Network Interface Devices
- 16 - Local Loops
- 17 - Loop Distribution
- 18 - Digital Loop Carrier/Analog Cross Connect
- 19 - Loop Feeder

20 Unbundled Local Transport

- 21 - Dedicated Interoffice Trunks (with & without electronics)
- 22 - Common Interoffice Trunks
- 23 - Multiplexing/Digital Cross Connect
- 24 - Dark Fiber

25 Unbundled Local Switching

- 1 - Local and Tandem Switching Capability (including all
- 2 software features provided by such switches)
- 3 - Access to Signaling Networks and Call-Related Databases
- 4 **Unbundled Tandem/Transit Switching**
- 5 - Establishment of Temporary Path Between Two Switching
- 6 Offices Through a Third (tandem) Switch
- 7 **Unbundled Ancillary Services**
- 8 - Operator Service
- 9 - Directory Assistance Service
- 10 - 911 Service
- 11 **Unbundled Data Switching**
- 12 - Switching Functionality for Data Services (such as frame
- 13 relay or ATM)
- 14 **Unbundled Intelligent Network & Advanced Intelligent Network**
- 15 **Capabilities**
- 16 **Unbundled Operations Support Systems**
- 17 - Back Office and Business Processes (order processing,
- 18 provisioning and installation, trouble resolution, maintenance,
- 19 customer care, monitoring service quality, recording and
- 20 billing)

21

22 BellSouth should be ordered to make available each of the unbundled loop

23 elements, local transport elements, switching elements, and other elements

24 requested by MCI. The unbundling of many of the requested elements has

25 been required by the FCC Competition Rules. The unbundling of the

1 remaining requested elements is technically feasible and is not proprietary.

2

3 BellSouth Position: BellSouth anticipates providing unbundled network
4 elements consistent with the requirements of the Act. This includes providing
5 elements that are technically feasible and implementing a bonafide request
6 process for additional items.

7

8 Q. PLEASE IDENTIFY THE ELEMENTS REQUESTED BY MCI THAT
9 BELLSOUTH WILL PROVIDE. PLEASE EXPLAIN YOUR
10 UNDERSTANDING AND POSITION ON THESE REQUESTED
11 ELEMENTS.

12

13 A. BellSouth does offer unbundled loops, switching, transport (including
14 dedicated), and operator systems.

15

16 Local loop facilities -- BellSouth will provide a variety of unbundled loops as a
17 single element. BellSouth is offering 2-wire and 4-wire analog voice grade
18 loops, 2-wire ISDN digital grade loops, and 4-wire DS-1 grade loops. MCI's
19 request for "sub-loop" unbundling, however, is not technically feasible as
20 indicated in Mr. Milner's testimony.

21

22 Local Switching -- BellSouth does offer unbundled local switching. The
23 fundamental local switching capability involves the line termination (port) and
24 the line side switching (dialtone) capability in the central office. These
25 functions provide connectivity to the switching features associated with the

1 telephone line and telephone numbers, routing capability to BellSouth's end
2 users and other BellSouth capabilities as well as the capability to reach other
3 new entrants and interexchange carriers. With these functionalities a new
4 entrant, who has not fully deployed its own switching functionality, can use
5 BellSouth's unbundled switching to reach a broader base of customers.

6
7 Contrary to the FCC's Order, BellSouth does not agree that software features
8 should be provided as part of the unbundled local switching element. These
9 features, while technically provided in the central office are not local switching
10 features. These functions are retail services and should be made available as
11 part of the resale of retail services offering.

12
13 The Commission must also recognize that these features currently provide
14 significant contribution to the social pricing objectives of this Commission
15 keeping local residence rates lower. If these features are to be offered as
16 proposed by the FCC, then alternate recovery methods will must be
17 implemented.

18
19 Unbundled elements will generally be used in conjunction with a new entrant's
20 own facilities and functions to provide competitive local exchange services.
21 The capabilities that BellSouth provides through its unbundled switching,
22 including the line termination (port), will meet the needs of carriers as they
23 begin to develop and ultimately expand their own networks. In addition to line
24 side local switching, BellSouth provides unbundled trunk side switching which
25 is already available in the Company's switched access tariffs. The selective

1 routing capability MCI includes in its definition of unbundled switching is
2 identical to its request for resale. As discussed by Mr. Milner and Mr.
3 Pecoraro, these capabilities are not feasible.

4
5 MCI has also raised the routing issue in its request for unbundled local
6 switching. MCI also requests access to AIN triggers in its request for
7 unbundled local switching. Mr. Milner describes the technical infeasibility of
8 providing these features.

9
10 Operator Systems -- BellSouth does offer access to stand-alone operator
11 services. In reality, MCI is talking about routing of "0" or "411" calls to its
12 operator services under resale arrangements or as part of its request for
13 unbundled switching. MCI has commingled the provision of BellSouth's
14 unbundled operator services with the provision of its own unbundled operator
15 services. These are two entirely different structures and circumstances.
16 BellSouth does offer unbundled operator services. These capabilities,
17 including Busy Line Verification and Interrupt, operator call assistance and
18 directory assistance, are included in many of BellSouth's negotiated
19 agreements.

20
21 Local Transport -- BellSouth does offer unbundled local transport. BellSouth
22 offers dedicated transport through its Special Access Tariff. Common
23 Transport by its nature is used by multiple carriers. As noted in this
24 Commission's March 29th Order in Docket No. 950984, page 8, "ALECs
25 currently have the option to lease these facilities from the LEC or to provide

1 the facilities themselves. Thus, we find that it is unnecessary to require
2 BellSouth to create a new pricing element because loop transport facilities are
3 currently available in BellSouth's tariff."

4

5 **SHOULD MCI BE ALLOWED TO COMBINE BELLSOUTH'S**
6 **UNBUNDLED NETWORK ELEMENTS TO RECREATE EXISTING**
7 **BELLSOUTH SERVICES?**

8

9 MCI Position: MCI can use unbundled network elements in any manner that it
10 chooses in order to provide service to its customers. The FCC Competition
11 Rules require BellSouth to allow MCI to use unbundled elements in any
12 combination. This rule permits limited exceptions only where BellSouth
13 proves that it is not technically feasible to combine elements or that the
14 combination of elements would impair other carriers' ability to obtain access to
15 unbundled elements.

16

17 BellSouth Position: ALECs should be able to combine BellSouth-provided
18 elements with their own capabilities to create a unique service. They should
19 not, however, be able to use only BellSouth's unbundled elements to create the
20 same functionality as BellSouth's existing services which are available under
21 the resale provisions.

22

23 Q IS MCI'S INTERPRETATION OF THE ORDER CORRECT?

24

25

1 A Yes. It should be noted, however, if MCI is allowed to do what it has
2 requested, resale as well as the development of facilities-based competition
3 will be significantly affected.

4
5 Paragraph 51.315 of the Rules states that an incumbent LEC shall provide
6 network elements in a manner that allows requesting telecommunications
7 carriers to combine such network elements in order to provide a
8 telecommunications service. An incumbent LEC that denies a request to
9 combine elements must prove to the state commission that the requested
10 combination is not technically feasible or that the requested combination would
11 impair the ability of other carriers to obtain access to unbundled network
12 elements or to interconnect with the incumbent LEC's network.

13
14 Adoption of the FCC's Rules would clearly have a dramatic impact on, not
15 only the resale of BellSouth's services, but also on the development of
16 facilities-based competition. It appears clear that if the FCC's Rules are
17 adopted as issued, BellSouth's position on this issue will need to change.

18
19 Q. EXPLAIN THE RATIONALE FOR BELL SOUTH'S POSITION.

20
21 A. In many instances, combining unbundled elements provided by BellSouth in
22 conjunction with a new entrant's capabilities is practical and appropriate. It is
23 not appropriate, however, that the recombination be totally unbundled elements
24 provided only by BellSouth and, when taken together, create the identical
25 functionality as an existing BellSouth service. Nowhere in the Act does it

1 anticipate the recreation of an existing service by the simple reassembling of
2 the LEC's unbundled elements. If that is what Congress had in mind, it would
3 have eliminated the resale provision.

4
5 Unbundling is the purchase of underlying network elements that can be
6 combined with a carrier's own elements to offer services, while resale involves
7 the purchase of underlying network elements that are already combined and
8 offered as a finished service. Based on this understanding, when the
9 combination of unbundled elements produces the finished service, then the
10 recombination should be purchased as a resold service. To do otherwise is to
11 condone tariff arbitrage without any justification. The most apparent
12 recombination of elements that would produce a finished service is the loop
13 and port (local switching) which is the functional equivalent of a basic local
14 exchange service.

15

16 Q. HOW IS BELL SOUTH'S POSITION CONSISTENT WITH THE
17 REQUIREMENTS OF THE ACT?

18

19 A. BellSouth's position is entirely consistent with the requirements and the intent
20 of the Act. Clearly the intent of the Act was to promote both facilities-based
21 and resale competition. The Act clearly obligates BellSouth to both unbundle
22 components and provide for the resale of its services. Consistent with this
23 intent, two pricing standards were established. Allowing the same service to
24 be purchased through unbundled components or through resale at two different
25 prices would be contrary to this intent. Further, such pricing would lead to

1 total arbitrage and provide no incentives for a carrier to invest in new
2 capabilities.

3

4 **WHAT SHOULD BE THE PRICE OF EACH OF THE ITEMS**
5 **CONSIDERED TO BE NETWORK ELEMENTS, CAPABILITIES, OR**
6 **FUNCTIONS?**

7

8 MCI Position: Prices of unbundled elements should be set at TELRIC.

9

10 BellSouth Position: The price of unbundled network elements according to the
11 Act must be based on cost and may include a reasonable profit. Tariffed prices
12 for existing, unbundled tariffed services meet this requirement and are the
13 appropriate prices for these unbundled elements. The price for a new
14 unbundled service should be set to recover its costs, provide contribution to
15 shared and common costs and provide a reasonable profit.

16

17 Q DOE THE FCC'S ORDER IMPACT BELLSOUTH'S POSITION?

18

19 A Yes. The general pricing standards for unbundled elements are discussed in
20 Paragraph 51.503 of the Rules. Elements must be offered at rates, terms, and
21 conditions that are just, reasonable, and nondiscriminatory. The rates for each
22 element an incumbent LEC offers shall comply with the rate structure set forth
23 in the Rules. One significant requirement of the general rate structure standard
24 included in Paragraph 51.507 is that, "[s]tate commissions shall establish
25 different rates for elements in at least three defined geographic areas within the

1 state to reflect geographic cost differences.” Rates shall be established
2 pursuant to the forward-looking economic cost pricing methodology set forth
3 in the Rules, or consistent with the proxy ceilings and ranges in the Rules.

4
5 Based on an initial review and if the Order stands, BellSouth must submit cost
6 studies performed based on the guidelines set forth in the FCC’s Rules. In
7 addition, rates must be deaveraged for at least three geographic areas as
8 determined by the state commission.

9
10 The Rules provide that until such time as cost studies are submitted and
11 approved, the Commission may set rates based on default proxies that are
12 provided in Paragraph 51.513. The rates proposed by BellSouth are different
13 than the default proxies provided in the Rules. As mentioned in the discussion
14 of Issue 10, before using these proxies, the FPSC should determine whether or
15 not they are consistent with the Act.

16
17 Q. PLEASE EXPAND ON BELL SOUTH’S POSITION ON THE PRICING OF
18 UNBUNDLED ELEMENTS.

19
20 A. As stated previously, BellSouth provides through its tariffs some services
21 which are already unbundled as a general offering to either end users or to
22 other telecommunications providers. Therefore, the prices have already been
23 set and approved by the Commission. These prices meet the pricing standards
24 in the Act and no adjustment is needed. Pricing at rates other than those that
25 currently exist will create opportunities for tariff shopping and arbitrage. For

1 new or additional unbundled elements, BellSouth proposes a price which
2 covers cost, provides contribution to recovery of shared and common costs,
3 includes a reasonable profit and is not discriminatory.

4
5 Q. WHY ARE BELLSOUTH'S PROPOSED RATES APPROPRIATE?

6
7 A. BellSouth proposed the special access line rate for the 2-wire analog voice
8 grade loop in the unbundling Docket No. 950984-TP. The Commission
9 established the recurring rate for this unbundled loop at \$17.00. Therefore,
10 BellSouth has proposed and offered this \$17.00 rate to MCI and other
11 providers. This rate covers the incremental cost of providing the loop, as well
12 as some contribution to shared and common costs. This rate is below the
13 special access rate and has been negotiated and agreed to by such local
14 competitors as Intermedia Communications, Inc.

15
16 BellSouth currently offers an unbundled 4-wire voice grade analog loop and a
17 4-wire digital grade loop service. BellSouth proposes using the existing
18 tariffed recurring special access rates for these unbundled services for which
19 BellSouth filed cost studies on May 28, 1996. The proposed rates cover the
20 cost of the loops and provide a minimal amount of contribution to shared and
21 common costs.

22
23 Q. DO THESE PRICES MEET THE PRICING STANDARDS IN THE ACT?

24
25

1 A. Yes. Section 252(d)(1) of the Act states that the rates for interconnection and
2 network elements:

3

4 “(A) shall be --

5 “(i) based on the cost (determined without reference to a rate-of-return
6 or other rate-based proceeding) of providing the interconnection or
7 network element (whichever is applicable), and

8 “(ii) nondiscriminatory, and

9 (“B) may include a reasonable profit.”

10

11 As stated above, BellSouth has filed cost studies on these services that meet the
12 requirements of the Act. These same rates are available to other providers who
13 request these unbundled elements.

14

15 **DO THE PROVISIONS OF SECTIONS 251 AND 252 APPLY TO**
16 **ACCESS TO UNUSED TRANSMISSION MEDIA (E.G., DARK FIBER)?**
17 **IF SO, WHAT ARE THE APPROPRIATE RATES, TERMS, AND**
18 **CONDITIONS?**

19

20 MCI Position: MCI requires the ability to obtain interoffice transport in
21 whatever manner is most efficient, given the number and location of its
22 customers and the amount of traffic interchanged with BellSouth. This
23 includes the use of both common and dedicated transport facilities, and the use
24 of both dark and dim fiber (e.g., without the associated electronics). Such
25 facilities are subject to the Act’s unbundling requirements, and it is technically

1 feasible to provide them on an unbundled basis.

2

3 BellSouth Position: Sections 251 and 252 do not apply to unused transmission
4 media. Dry fiber is neither an unbundled network element, nor is it a retail
5 telecommunications service to be resold. If it is not a network element and it is
6 not a retail service, there is no other standard under the Act for its provision.

7

8 To be a retail service, it must be currently available as a tariffed (or
9 comparable) service offering. Dry fiber is not. To be an unbundled network
10 element, it must contain some functionality inherent in BellSouth's network.
11 Dry fiber is no more a network element than the four walls surrounding a
12 switch are an unbundled element.

13

14 Q DID THE FCC'S RULES ADDRESS THIS ISSUE?

15

16 A No.

17

18 **WHAT ARE THE APPROPRIATE STANDARDS, IF ANY, FOR**
19 **PERFORMANCE METRICS, SERVICE RESTORATION, AND**
20 **QUALITY ASSURANCE RELATED TO SERVICE PROVIDED BY**
21 **BELLSOUTH FOR RESALE AND FOR NETWORK ELEMENTS**
22 **PROVIDED TO MCI BY BELLSOUTH?**

23

24 **SHOULD BELLSOUTH BE REQUIRED TO PROVIDE PROCESS AND**
25 **DATA QUALITY CERTIFICATION FOR CARRIER BILLING, DATA**

1 **TRANSFER, AND ACCOUNT MAINTENANCE?**

2

3 **MCI Position:** BellSouth should be ordered to adhere to performance metrics,
4 installation intervals, repair intervals and other standards that are equal to the
5 higher of the standards that BellSouth is required to provide, or actually
6 provides, to its own customers or to customers of any other carrier. MCI
7 proposes that BellSouth be required to compensate MCI through a credit
8 against bills for resold services and unbundled network elements for any failure
9 to provide service to MCI that is at least equal in quality to that provided to
10 BellSouth itself.

11

12 **BellSouth Position:** BellSouth will provide the same quality for services
13 provided to MCI and other ALECs that it provides to its own customers for
14 comparable services. The current Commission rules for service quality and
15 monitoring procedures should be used to address any concerns. It is, however,
16 appropriate to jointly develop quality measurements. Damages are not subject
17 to arbitration. BellSouth's position on performance metrics appears to be
18 consistent with the FCC's Order and Rules.

19

20 Q WHAT IMPACT DID THE FCC'S ORDER HAVE ON THE COMPANY'S
21 POSITION?

22

23 A BellSouth has preliminarily concluded that its position on performance metrics
24 appears to be consistent with the FCC's Order and Rules. Provisioning of
25 unbundled network elements is covered in Paragraph 51.311 of the Rules. It

1 states that the quality of unbundled network elements, as well as the quality of
2 the access, that an incumbent LEC provides to a requesting carrier shall be the
3 same for all telecommunications carriers requesting access to that network
4 element. It goes on to say that, to the extent technically feasible, the quality of
5 the access to unbundled network elements must be at least equal in quality to
6 that which the incumbent LEC provides to itself. Also, to the extent
7 technically feasible, the quality of an unbundled network element as well as the
8 quality of the access to the element, upon request, shall be superior to that
9 which the incumbent LEC provides to itself.

10

11 Q. ARE FINANCIAL PENALTIES FOR FAILURE TO MEET QUALITY
12 STANDARDS APPROPRIATE FOR ARBITRATION?

13

14 A. No. BellSouth believes that the issues of financial penalties, and other
15 liquidated damages or credits are not subject to arbitration under Section 251
16 of the Act. To the extent that MCI attempts to include penalties in its request
17 for arbitration of service standards, the Commission should dismiss that
18 portion of the issue. Financial penalty clauses are not appropriate for
19 negotiated agreements subject to arbitration since Florida law and Commission
20 procedures are adequate to handle a breach of contract situation should it arise.

21

22 **D. ADDITIONAL INTERCONNECTION REQUIREMENTS AND ISSUES**

23

24 **IS IT APPROPRIATE FOR BELL SOUTH TO PROVIDE COPIES OF**
25 **ENGINEERING RECORDS THAT INCLUDE CUSTOMER SPECIFIC**

1 **INFORMATION WITH REGARD TO BELLSOUTH'S POLES,**
2 **DUCTS, AND CONDUITS? HOW MUCH CAPACITY IS**
3 **APPROPRIATE FOR BELLSOUTH TO RESERVE WITH REGARD**
4 **TO ITS POLES, DUCTS AND CONDUITS?**

5
6 MCI Position: MCI's access to BellSouth's rights-of-way, poles, ducts and
7 conduits should not be limited by BellSouth to BellSouth's excess capacity.
8 MCI should have access to all capacity which is currently available or which
9 can be made available. BellSouth should be required to provide regular reports
10 on the capacity status and planned increase in capacity of all their poles, ducts
11 and conduits so that MCI can identify whether or not they are full and plan
12 accordingly. Also, BellSouth should provide engineering records for
13 unbundled facilities that MCI obtains from BellSouth.

14
15 BellSouth Position: BellSouth will provide structure occupancy information
16 regarding conduits, poles, and other rights-of-way requested by MCI and will
17 allow designated MCI personnel or agents to examine engineering records or
18 drawings pertaining to such requests. It is reasonable for BellSouth to reserve
19 in advance five years of capacity in a given facility. Access by MCI to
20 engineering records for unbundled facilities is not necessary. Mr. Milner
21 provides additional detail on this issue in his testimony.

22
23 The FCC Order indicates that allowing an incumbent LEC to reserve space for
24 local exchange service, to the detriment of a would-be entrant into the local
25 exchange business, would favor the future needs of the incumbent over the

1 current needs of the new entrant. There is no basis to believe that BellSouth's
2 plans to manage its conduit in an efficient manner will in any way favor the
3 incumbent. If, indeed, MCI believed in the future that BellSouth's procedures
4 somehow created an advantage, MCI has ample recourse at that time. If it
5 chose it could come to BellSouth and recommend changes based on actual
6 experience. If it did not want to take that avenue or if MCI felt BellSouth did
7 not adequately respond, it could submit a complaint to this Commission. In
8 this, as in so many other areas, actual experience, rather than hypothetical
9 concerns, will lead to a more sustainable result.

10

11 **SHOULD BELLSOUTH REQUIRED TO USE THE CMDS PROCESS**
12 **FOR LOCAL AND INTRALATA CALLS IN THE SAME MANNER AS**
13 **USED TODAY FOR INTERLATA CALLS?**

14

15 **WHAT ARE THE APPROPRIATE RATES TERMS AND**
16 **CONDITIONS, IF ANY, FOR RATING INFORMATION SERVICES**
17 **TRAFFIC BETWEEN MCI AND BELLSOUTH?**

18

19 MCI Position: BellSouth is not totally clear on MCI's request but believes that
20 MCI is asking BellSouth to rate calls through a uniform system
21 (region/nationwide) for processing intraLATA collect and third number type
22 calls.

23

24 BellSouth Position: Such a uniform system for rating of calls for LECs,
25 Independent Companies and other providers does not currently exist. Current

1 systems are more state specific. However, BellSouth is investigating the
2 feasibility of a uniform system.

3

4 Q. DESCRIBE BELLSOUTH'S POSITION ON THIS ISSUE.

5

6 A. It is my understanding that MCI has requested a uniform regional system for
7 the processing of intraLATA collect and third number type calls in addition to
8 information services calls. This issue is not clearly defined in MCI's petition
9 for arbitration. Given the lack of specificity of the issue itself, BellSouth is
10 responding to what it believes to be. Further analysis may determine that there
11 are other aspects of this issue that can not be discerned by the information that
12 has been provided.

13

14 As BellSouth understands, the regional system MCI envisions would be
15 uniform across states, call types and incumbent LECs (e.g., BellSouth or
16 independent companies). Such a system may, indeed, simplify matters for
17 MCI in processing these types of calls. There appears to be a one "small"
18 problem -- such a system does not exist today. BellSouth can and will provide
19 the capabilities MCI is requesting, but because the current systems are state
20 specific, the level of uniformity will not exist. BellSouth has also indicated
21 that it has been examining the feasibility of systems modification based on
22 some Bellcore proposals which could create national uniformity (if adopted by
23 all systems users).

24

25 However, BellSouth has no obligation to develop and implement a new system

1 simply to meet MCI's desire for uniformity. There are no such obligations
2 under the Act. Presumably, the information services part of this request is
3 linked to this regional system but the relationship is not clear.

4

5 **SHOULD BELLSOUTH BE REQUIRED TO PROVIDE CARRIER**
6 **BILLING USING INDUSTRY STANDARDS?**

7

8 MCI Position: MCI has requested BellSouth to provide billing for unbundled
9 network elements in a carrier access billing system (CABS) format to facilitate
10 standard industry auditing practices. The use of Customer Record Information
11 System (CRIS) billing, which BellSouth proposes to use for unbundled
12 elements other than access-like services, is unacceptable.

13

14 BellSouth Position: Neither the Act, nor the FCC's Order specify which
15 billing system(s) BellSouth must use. BellSouth must be able to employ the
16 most efficient means to render accurate and timely bills. While BellSouth
17 works with carriers on bill entries, formats, etc., in the end, the systems are
18 BellSouth's responsibility. As such, this issue should not be arbitrated in this
19 proceeding or in any other similar proceeding.

20

21 **SHOULD MCI RECEIVE, FOR ITS CUSTOMERS,**
22 **NONDISCRIMINATORY ACCESS TO WHITE AND YELLOW PAGE**
23 **DIRECTORY LISTINGS?**

24

25 MCI Position: BellSouth understands this issue to be MCI's request to place

1 customized covers on directories published by BellSouth's affiliates, and the
2 inclusion of MCI's listings in BellSouth's directories.

3
4 BellSouth Position: BellSouth does not believe that the issue of customized
5 directory covers is subject to arbitration under Section 251 of the Act, and
6 BellSouth requests that the Commission not arbitrate this issue. Where
7 directory publishing is concerned, the contracting party is BellSouth
8 Advertising and Publishing Company ("BAPCO"), not BellSouth. BAPCO
9 should be allowed to determine what it can provide to all local exchange
10 companies beyond what is required by the Act. They have negotiated
11 extensively and independently with MCI. Such private negotiations should not
12 be hindered.

13
14 The Act requires inclusion of subscriber listings in White Pages directories.
15 BellSouth has already agreed to ensure that MCI and other ALECs' subscriber
16 listings are included in the White Pages directories. Any Commission action
17 beyond this agreed upon provision would affect the interests of BAPCO as
18 publisher which is not a party to this proceeding. Further, the issue of
19 directory listings is included in the BellSouth/MCI Partial Agreement, Exhibit
20 II of MCI's Petition for Arbitration, and as such should not be subject to any
21 arbitration. It would appear that MCI's submission supports the fact that the
22 directory listing issues are effectively resolved.

23
24 **WHAT SHOULD BE THE COST RECOVERY MECHANISM FOR**
25 **REMOTE CALL FORWARDING (RCF) USED TO PROVIDE**

1 **INTERIM LOCAL NUMBER PORTABILITY IN LIGHT OF THE**
2 **FCC'S RECENT ORDER?**

3
4 MCI Position: BellSouth must be ordered to provide RCF on a competitively
5 neutral basis as required by the FCC's recent order on interim local number
6 portability. The cost recovery mechanism adopted by this Commission in
7 Order No. PSC-95-1604-FOF-TP issued on December 28, 1995 in Docket No.
8 950737-TP violates the FCC's criteria, since it places the burden of recovering
9 the entire incremental cost of providing RCF as an interim number portability
10 mechanism on new entrants. The costs incurred by BellSouth and MCI in
11 implementing interim number portability should be recovered from their
12 respective customers in a "bill-and-keep" type of arrangement. This method
13 avoids the need to set specific rates and to implement billing systems to
14 support an interim mechanism which will soon be supplanted by a permanent
15 database solution.

16
17 BellSouth's Position:

18 The issue of cost recovery for interim local number portability is included in
19 the BellSouth/MCI Partial Agreement, Exhibit II of MCI's Petition for
20 Arbitration, and as such should not be subject to any arbitration. As is clearly
21 indicated by the language of the Partial Agreement, the rates for interim
22 number portability have been established and are not to be arbitrated. Further,
23 any aspects of the FCC's Order that need to be decided will require input from
24 parties beyond those in this proceeding.

25

1 To the extent this issue involves the FCC Order, arbitration is not the forum for
2 resolution. Decisions on this issue can effect many parties beyond those in this
3 proceeding.

4

5 **WHAT TERMS AND CONDITIONS SHOULD APPLY TO THE**
6 **PROVISION OF LOCAL INTERCONNECTION BY BELLSOUTH TO**
7 **MCI?**

8

9 MCI Position: BellSouth must be ordered to allow interconnection at any
10 technically feasible point and must not be allowed to require more than one
11 point of interconnection (POI) per local calling area.

12

13 BellSouth Position: The issue of points of interconnection is included in the
14 BellSouth/MCI Partial Agreement, Exhibit II of MCI's Petition for Arbitration,
15 and as such should not be subject to any arbitration. The terms describing the
16 point of interconnection, which MCI must abide by, establish procedures for
17 designating POIs.

18

19 **WHAT ARE THE APPROPRIATE PRICE, TERMS AND**
20 **CONDITIONS FOR COLLOCATION?**

21

22 MCI Position: BellSouth must allow BellSouth-provided services or
23 unbundled elements to be connected at an MCI collocation space to any other
24 facility provided by MCI, BellSouth, or any other party. BellSouth must give
25 MCI the option to convert existing virtual collocations to physical collocations

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and BellSouth must bear the cost of such conversions.

BellSouth Position: There are several aspects to MCI's issue. First, MCI is requesting the ability to allow unbundled elements to be connected via collocation. This is precisely the purpose of collocation, i.e., to allow the cross connection of a BellSouth provided capability with the facility or capability of another carrier. BellSouth already provides this using virtual collocation and, in accordance with the Act, will implement physical collocation. BellSouth's Handbook for Physical Collocation submitted with my testimony in the AT&T arbitration proceeding describes BellSouth's Proposal.

MCI apparently also expects to be able to convert virtual to physical collocation at no charge. This assertion is somewhat astounding. Both the Act and the FCC Order clearly state that when costs are incurred, the LEC has the right to recover these costs. When virtual collocation is changed to physical, costs will be incurred and should be recovered from the cost causer. As such, unless BellSouth considered collocation as one of its eleemosynary responsibilities it expects payments when it has incurred costs.

Secondly, as stated above, BellSouth will offer both virtual and physical collocation so MCI can continue to maintain its current arrangements. If MCI decides it wants to physically collocate all its facilities, it can clearly do so, but it must pay for the services it desires. If MCI does not wish to incur such expenses, it can maintain virtual collocation.

1 Further, the issues surrounding this arbitration have to do with local
2 interconnection and network unbundling matters. Whatever facilities MCI
3 currently has collocated for its interexchange business is not at issue in this
4 proceeding.

5

6 **WHAT ARE THE APPROPRIATE PRICE, TERMS AND**
7 **CONDITIONS FOR ACCESS TO TELEPHONE NUMBERS?**

8

9 MCI Position: MCI has requested that BellSouth provide the ability for MCI
10 to obtain code assignments and other numbering resources on the same terms
11 and conditions that BellSouth makes available to itself.

12

13 BellSouth Position: BellSouth agrees that NXX assignments should be made
14 on a nondiscriminatory basis. Until the issue of a neutral administrator is
15 decided at the federal level, BellSouth as current code administrator, shall
16 provide nondiscriminatory NXX assignments to ALECs on the same basis that
17 such assignments are made to itself and other code holders today.

18

19 Q HAS THE COMMISSION ADDRESSED THIS ISSUE?

20

21 A In most part, this issue is covered by the BellSouth-MCI Partial Agreement
22 and for the reasons stated previously, not subject to arbitration proceedings.
23 The remaining issue raised by MCI deals with use of various 555-XXXX
24 numbers. Apparently in other parts of the country these numbers are used for
25 specialized purposes and MCI wishes to gain access to these numbers.

1 BellSouth currently has no such numbers, so there is nothing to which MCI
2 can avail itself. For this reason, BellSouth believes this non-issue needs to be
3 dismissed.

4

5 **WHAT ARE THE APPROPRIATE PRICE, TERMS AND**
6 **CONDITIONS RELATED TO THE IMPLEMENTATION OF DIALING**
7 **PARITY?**

8

9 MCI Position: MCI has requested that BellSouth provide dialing parity with no
10 unreasonable dialing delays.

11

12 BellSouth Position: The issue, like several others raised by MCI, is a result of
13 an FCC Order, not the result of an inability to agree in negotiations. Clearly if
14 the issues of cost recovery for dialing parity is to be resolved, this Commission
15 will require input from parties other than BellSouth and MCI. As such, this
16 issue should be dismissed for the purposes of this proceeding and raised, if
17 necessary, in a proceeding open to all effected or interested parties.

18

19 **WHAT OTHER REQUIREMENTS SHOULD BE INCLUDED IN THE**
20 **ARBITRATED AGREEMENT WITH RESPECT TO**
21 **INTERCONNECTION AND ACCESS, UNBUNDLING, RESALE,**
22 **ANCILLARY SERVICE, AND ASSOCIATED ARRANGEMENTS?**

23

24 MCI Position: MCI proposes the Mediation Plus arbitration procedure as the
25 method for handling arbitration of many of these issues. As MCI's request for

1 Mediation Plus has been denied, each of the technical, operational and
2 administrative issues shown in Annotated Term Sheet 3 will require resolution
3 through the normal Commission-established arbitration process.

4
5 BellSouth Position: The purpose of an arbitration proceeding is clear: to
6 resolve those issues the parties cannot agree to in negotiations. MCI's
7 suggestion that if Mediation Plus is denied, these issues should be arbitrated, is
8 not appropriate. Rather, the parties may need to continue to discuss several of
9 these issues without the involvement of the Commission. Arbitration must be
10 reserved for those issues that clearly cannot be negotiated. If arbitration is
11 used any differently, the Commission will be faced with a morass of technical
12 issues to resolve that cannot be adequately explored in such a proceeding. The
13 answer to the denial of Mediation Plus is not arbitration, it is: 1) a recalibration
14 of the issues to determine those of greatest significance, followed by; 2) further
15 discussion by the parties.

16
17 **WHAT ACTIONS SHOULD THE COMMISSION TAKE TO**
18 **SUPERVISE THE IMPLEMENTATION OF ITS DECISION?**

19
20 MCI Position: MCI requests that upon conclusion of the arbitration
21 proceeding, the Commission expressly reserve its jurisdiction over the parties
22 to enforce the terms and conditions, including the implementation schedules, in
23 the arbitrated agreement.

24
25 BellSouth Position: Commission jurisdiction concerning arbitrated agreements

1 is not an issue for arbitration. Once issues are resolved through arbitration,
2 they become part of an overall agreement which is then submitted to this
3 Commission for approval. This is what the Act requires. Any complaints or
4 concerns that MCI may have after the agreements are reached may be filed and
5 resolved through the normal procedures of this Commission.

6
7 Q IN LIGHT OF THE UNCERTAINTY RELATING TO THE ULTIMATE
8 OUTCOME OF THE FCC'S ORDER IN CC. NO. DOCKET 96-98, HOW
9 WOULD BELLSOUTH PROPOSE THAT THIS COMMISSION DEAL
10 WITH THESE ISSUES?

11
12 A As described in my testimony and that of the other BellSouth witnesses, the
13 Commission should adopt the positions put forth by BellSouth because they
14 are consistent with the intent and meaning of the Act. To the extent that the
15 Commission feels compelled to adopt provisions of the FCC's Order that are
16 inconsistent with BellSouth's provisions, a true-up mechanism must be
17 adopted.

18
19 The need for such a mechanism is straight forward: the rights of both this
20 Commission and BellSouth must be preserved. Any rate, term, or condition
21 implemented as a result of this proceeding that is inconsistent with BellSouth's
22 position and is subsequently found to be inconsistent with the Act through
23 appeals or reconsideration, must be amended as soon as it is determined to be
24 inconsistent. Further and equally important, BellSouth must be entitled to
25 recoup, to the extent possible, whatever financial losses it has incurred due to

1 this decision. While such a recoupment can never fully correct the potential
2 harms that can occur, it is the minimum correction required in such a
3 circumstance.

4

5 **III. SUMMARY AND RECOMMENDATIONS**

6

7 Q. PLEASE SUMMARIZE YOUR TESTIMONY AND PROVIDE
8 BELLSOUTH'S RECOMMENDATIONS FOR THE COMMISSION.

9

10 A. BellSouth appreciates the opportunity to respond to MCI's petition for
11 arbitration. BellSouth has developed a track record in recent months of
12 negotiating in good faith with numerous ALECs with very diverse interests.
13 The results of these negotiations have been fruitful, producing twenty
14 agreements, thirteen of which have been filed in Florida.

15

16 BellSouth requests that this Commission find that BellSouth has been
17 reasonable in its approach to negotiations and requests that this Commission
18 adopt its positions on the issues in this proceeding. BellSouth looks forward
19 to a speedy resolution of the issues in this proceeding and further hopes that the
20 progress made in this arbitration will allow BellSouth and MCI to complete an
21 agreement covering all remaining issues for filing with this Commission.

22

23 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

24

25 A. Yes.