

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition by AT&T Communications of the Southern States, Inc. for arbitration of certain terms and conditions of ar proposed agreement with GTE Florida Incorporated concerning interconnection and resale under the Telecommunications Act of 1996.)	DOCKET NO. 960847-TP
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In Re: Petition by MCI Telecommunications Corporation and MCI Metro Access Transmission Services, Inc. for arbitration of certain terms and conditions of a proposed agreement with GTE Florida Incorporated concerning resale and interconnection under the Telecommunications Act of 1996.)	DOCKET NO. 960980-TP ORDER NO. PSC-96-1152-PCO-TP ISSUED: September 13, 1996

ORDER CONSOLIDATING PROCEEDINGS
AND DENYING MOTION FOR "MEDIATION PLUS"

On March 11, 1996, AT&T Communications of the Southern States, Inc. (AT&T) requested that GTE Florida Incorporated (GTEFL) begin negotiations for an interconnection agreement pursuant to Section 252 of the Telecommunications Act of 1996 (the Act). On April 3, 1996, MCI Telecommunications Corporation and Metro Access Transmission Services, Inc. (collectively MCI) requested GTEFL begin negotiations. On August 16, 1996, AT&T filed a petition for arbitration of unresolved issues pursuant to Section 252 of the Act. On August 28, 1996, MCI filed a similar petition.

On August 26, 1996, MCI filed a petition requesting that the Commission establish a "Mediation Plus" procedure to facilitate the disposition of its petition. On August 28, 1996, MCI filed a motion to consolidate its arbitration proceeding with the AT&T/GTEFL arbitration proceeding. In support of its motion to consolidate, MCI stated that its proceeding will have many issues in common with the AT&T/GTEFL proceeding. MCI proposes that at the normal issue identification meeting, the parties identify two sets of issues: (1) those common to both the AT&T/GTEFL petition and the MCI/GTEFL petition; and (2) those unique to one of the petitions. All parties will participate fully in the issues common to both proceedings and the Commission's decision on those issues

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will be binding on all parties. Only the affected parties would participate on the unique issues. MCI noted that the Commission granted a similar motion to consolidate the MCI/BellSouth arbitration with the AT&T/BellSouth arbitration. AT&T does not oppose MCI's request to consolidate.

In its motion to establish "Mediation Plus," MCI stated that there are some major issues that must be arbitrated by the Commission and that there are numerous technical, operational, and administrative issues. These issues must be resolved by the parties or the Commission but MCI believes many of these issues can be resolved by negotiation or mediation. MCI proposes that the Commission accept all issues for arbitration and direct the parties to continue negotiations on certain issues with the assistance of a mediator. MCI proposes that mediator be a member of the Commission staff. MCI asks that the Commission establish an October 18, 1996, deadline for conclusion of mediation and an October 25, 1996, deadline for the parties to file any written agreement with the Commission that results from the negotiations/mediation and any supplemental testimony necessary for the Commission to resolve the remaining issues by the end of the 9 month statutory deadline. In the meantime, the hearing on the major issues would continue on schedule.

GTEFL responded to MCI's motions on September 4, 1996. GTEFL agreed that consolidation of the common issues is appropriate. GTEFL does not support the proposal to establish "Mediation Plus." GTEFL argued that agreement had been reached on many of the issues that MCI proposes be mediated. GTEFL stated that negotiations should be allowed to run their course without mediation or future hearings.

Upon consideration, I find it appropriate to consolidate the AT&T/GTEFL and MCI/GTEFL arbitration proceedings. The Act contemplates state Commissions consolidating arbitration proceedings if it is practical. 47 U.S.C. § 252(g). The parties agree that there are many issues common to both arbitrations. Consolidation will prevent repetitive witnesses and cross-examination. Accordingly, the following guidelines are established to govern these proceedings:

- 1) The parties shall identify two categories of issues: those that are common to the AT&T/GTEFL petition and the MCI/GTEFL petition; and those that are unique to each petition.
- 2) All parties shall participate fully in the litigation of the issues that are common to both petitions. The

Commission's decision on the common issues shall be binding on all parties.

3) Only the parties directly involved will participate in the litigation of the issues that are unique to only one of the petitions. For example, GTEFL and AT&T may participate with respect to the AT&T petition, and GTEFL and MCI may participate with respect to the MCI petition. The non-affected petitioner shall not present testimony, conduct cross-examination, or file a brief with respect to the issues that affect only the other petitioner. The Commission's decision on the unique issues shall be binding only on the parties who litigated the issue.

The provisions for discovery, diskette filings, testimony, prehearing statements, the prehearing conference, prehearing procedure, and confidentiality outlined in Order No. PSC-96-1053-PCO-TP, issued August 16, 1996, will govern this proceeding unless changed by this Order. The following dates are established to govern the procedural schedule in this docket:

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| 1. GTEFL Direct Testimony | September 20, 1996 |
| 2. Prehearing Statements | September 24, 1996 |
| 3. Rebuttal Testimony - GTEFL and MCI | September 30, 1996 |
| 4. Prehearing Conference | October 3, 1996 |
| 5. Hearing | October 14-16, 1996 |
| 6. Briefs | October 28, 1996 |

I deny MCI's motion to establish "Mediation Plus." If mediation fails, another hearing would be added to the Commission's already crowded calendar. The efficiency created by consolidation would be lost. The parties are encouraged to take whatever steps they feel necessary, including mediation, to reach agreement on all issues.

Based on the foregoing, it is

ORDERED by Commissioner J. Terry Deason, as Prehearing Officer, that MCI Telecommunications Corporation and Metro Access Transmission Services, Inc.'s Motion for Consolidation is granted as described in the body of this Order. It is further

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ORDERED that MCI Telecommunications Corporation and Metro Access Transmission Services, Inc.'s Motion to Establish Procedure for "Mediation Plus" is denied. It is further

ORDERED that Order No. PSC-96-1053-PCO-TP, issued August 16, 1996, is supplemented as described in the body of this Order and reaffirmed in all other respects.

By ORDER of Commissioner J. Terry Deason, as Prehearing Officer, this 13th day of September, 1996.



J. TERRY DEASON, Commissioner and
Prehearing Officer

(S E A L)

LMB

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in

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the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.